

games he coached over a 20-year NBA coaching career;

Whereas during his nearly 57-year tenure with the Celtics as Head Coach, General Manager, Vice Chairman of the Board, and President, Red was the architect of one of the greatest dynasties in the history of professional sports;

Whereas Red infused the Celtics organization with the values of teamwork, respect, tenacity, and loyalty, creating a culture known as "Celtic Pride" that will be forever associated with the Boston Celtics franchise;

Whereas Red's imprint on the Celtics, the NBA, and the game of basketball is permanent and visible today in innovations that Red developed, including the "sixth man" role and fast break style of play;

Whereas Red was an effective and tireless ambassador for the game of basketball, both in the United States and overseas, conducting clinics, barnstorming with the Celtics, starring in the successful television series "Red on Roundball", writing 7 books on basketball, including the influential "Basketball For The Player, The Coach, and The Fan", and participating with Celtics great and Hall of Famer Larry Bird in the instructional video, "Winning Basketball";

Whereas Red received numerous awards and honors in recognition of his extraordinary achievements, such as selection as the NBA Coach of the Year in 1965, induction into the Naismith Memorial Basketball Hall of Fame in 1969, designation as the NBA Executive of the Year in 1980, and selection as "The Greatest Coach in the History of the NBA" by the Professional Basketball Writers' Association of America in 1980;

Whereas Red's lighting of his cigar in the closing moments of an imminent Celtics' victory became an enduring symbol of success in Boston and around the world;

Whereas Red's legacy extends beyond the game of basketball and includes his important contributions to the advancement of a colorblind society through his decisions to draft the NBA's first African-American player, Chuck Cooper, in 1950, hire the first African-American head coach in professional sports, Bill Russell, in 1966, and field the first starting lineup in the NBA consisting entirely of African-American players in 1964; and

Whereas the name Red Auerbach will forever be synonymous with winning, intensity, integrity, and charitable causes: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Arnold "Red" Auerbach was a basketball genius who embodied the values of creativity, determination, versatility, and commitment to helping the less fortunate;

(2) Red Auerbach was a leader in the effort to remove racial barriers and allow merit to prevail in professional sports, through his decisions to draft, hire, and prominently feature African-Americans on the Boston Celtics basketball team; and

(3) Red Auerbach's place among the greatest coaches and executives of all time is assured, his contributions to the betterment of society will always endure, and his life exemplifies the very best ideals of the United States.

#### SENATE RESOLUTION 625—EXTENDING THE AUTHORITY FOR THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 625

*Resolved*, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), and as further amended by Senate Resolution 480 of the One Hundred Eighth Congress, 2d session (agreed to November 20, 2004), is further amended in section 4 by striking "2006" and inserting "2008".

#### AMENDMENTS SUBMITTED & PROPOSED

SA 5212. Mr. ENSIGN (for Mr. ENZI (for himself and Mr. KENNEDY)) proposed an amendment to the bill H.R. 6143, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV AIDS.

SA 5213. Mr. FRIST (for Mr. INHOFE (for himself, Mr. CHAFEE, and Mr. JEFFORDS)) proposed an amendment to the bill H.R. 4588, to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984.

SA 5214. Mr. FRIST (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. BAUCUS)) proposed an amendment to the bill S. 2735, to amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes.

SA 5215. Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 430, recognizing the accomplishments of the American Council of Young Political Leaders for providing 40 years of international exchange programs, increasing international dialogue, and enhancing global understanding, and commemorating its 40th anniversary.

SA 5216. Mr. FRIST (for Mr. AKAKA) proposed an amendment to the bill S. 1876, to provide that attorneys employed by the Department of Justice shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code.

SA 5217. Mr. FRIST (for Mr. SPECTER (for himself, Mr. LEAHY, Mr. REID, Mr. CORNYN, and Mr. DURBIN)) proposed an amendment to the bill H.R. 1751, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

SA 5218. Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill S. 2653, to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

SA 5219. Mr. FRIST (for Mr. ENZI) proposed an amendment to the bill H.R. 864, to provide for programs and activities with respect to the prevention of underage drinking.

SA 5220. Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill H.R. 4075, to amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes.

SA 5221. Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill H.R. 4075, supra.

SA 5222. Mr. WYDEN (for himself, Ms. CANTWELL, Mr. SMITH, and Mrs. MURRAY)

submitted an amendment intended to be proposed by him to the bill H.R. 4388, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 5223. Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 3821, to authorize certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance.

#### TEXT OF AMENDMENTS

**SA 5212.** Mr. ENSIGN (for Mr. ENZI (for himself and Mr. KENNEDY)) proposed an amendment to the bill H.R. 6143, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV AIDS; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Ryan White HIV/AIDS Treatment Modernization Act of 2006".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

Sec. 101. Establishment of program; general eligibility for grants.

Sec. 102. Type and distribution of grants; formula grants.

Sec. 103. Type and distribution of grants; supplemental grants.

Sec. 104. Timeframe for obligation and expenditure of grant funds.

Sec. 105. Use of amounts.

Sec. 106. Additional amendments to part A.

Sec. 107. New program in part A; transitional grants for certain areas ineligible under section 2601.

Sec. 108. Authorization of appropriations for part A.

#### TITLE II—CARE GRANTS

Sec. 201. General use of grants.

Sec. 202. AIDS Drug Assistance Program.

Sec. 203. Distribution of funds.

Sec. 204. Additional amendments to subpart I of part B.

Sec. 205. Supplemental grants on basis of demonstrated need.

Sec. 206. Emerging communities.

Sec. 207. Timeframe for obligation and expenditure of grant funds.

Sec. 208. Authorization of appropriations for subpart I of part B.

Sec. 209. Early diagnosis grant program.

Sec. 210. Certain partner notification programs; authorization of appropriations.

#### TITLE III—EARLY INTERVENTION SERVICES

Sec. 301. Establishment of program; core medical services.

Sec. 302. Eligible entities; preferences; planning and development grants.

Sec. 303. Authorization of appropriations.

Sec. 304. Confidentiality and informed consent.

Sec. 305. Provision of certain counseling services.

Sec. 306. General provisions.

#### TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

Sec. 401. Women, infants, children, and youth.

Sec. 402. GAO Report.

#### TITLE V—GENERAL PROVISIONS

Sec. 501. General provisions.

# TITLE VI—DEMONSTRATION AND TRAINING

- Sec. 601. Demonstration and training.  
 Sec. 602. AIDS education and training centers.  
 Sec. 603. Codification of minority AIDS initiative.

# TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Hepatitis; use of funds.  
 Sec. 702. Certain references.  
 Sec. 703. Repeal.

# TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

## SEC. 101. ESTABLISHMENT OF PROGRAM; GENERAL ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—Section 2601 of the Public Health Service Act (42 U.S.C. 300ff-11) is amended by striking subsections (b) through (d) and inserting the following:

“(b) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that is an eligible area for a fiscal year continues to be an eligible area until the metropolitan area fails, for three consecutive fiscal years—

“(1) to meet the requirements of subsection (a); and

“(2) to have a cumulative total of 3,000 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

“(c) BOUNDARIES.—For purposes of determining eligibility under this part—

“(1) with respect to a metropolitan area that received funding under this part in fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that were in effect for such area for fiscal year 1994; or

“(2) with respect to a metropolitan area that becomes eligible to receive funding under this part in any fiscal year after fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that are in effect for such area when such area initially receives funding under this part.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended—

(1) by striking “through (d)” and inserting “through (c)”; and

(2) by inserting “and confirmed by” after “reported to”.

(c) DEFINITION OF METROPOLITAN AREA.—Section 2607(2) of the Public Health Service Act (42 U.S.C. 300ff-17(2)) is amended—

(1) by striking “area referred” and inserting “area that is referred”; and

(2) by inserting before the period the following: “, and that has a population of 50,000 or more individuals”.

## SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA GRANTS.

(a) DISTRIBUTION PERCENTAGES.—Section 2603(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(2)) is amended—

(1) in the first sentence—

(A) by striking “50 percent of the amount appropriated under section 2677” and inserting “66½ percent of the amount made available under section 2610(b) for carrying out this subpart”; and

(B) by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”.

(2) by striking the last sentence.

(b) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(3)) is amended—

(1) in subparagraph (B), by striking “estimated living cases of acquired immune defi-

ciency syndrome” and inserting “living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)”; and

(2) by striking subparagraphs (C) through (E) and inserting the following:

“(C) LIVING CASES OF HIV/AIDS.—

“(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

“(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through 2009, an eligible area is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

“(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (viii); or

“(II) no later than the beginning of fiscal year 2008 or 2009, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

“(iii) REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.—For fiscal year 2007, an exemption under clause (ii) for an eligible area applies only if, by October 1, 2006—

“(I)(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

“(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

“(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

“(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

“(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

“(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

“(I) IN GENERAL.—With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as ‘code-based reporting’), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

“(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for an eligible area

shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the area.

“(vii) MULTIPLE POLITICAL JURISDICTIONS.—With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

“(I) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.

“(II) If under subclause (I) both names-based reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

“(viii) LIST OF ELIGIBLE AREAS MEETING STANDARD REGARDING DECEMBER 31, 2005.—

“(I) IN GENERAL.—If an eligible area or portion thereof is in a State specified in subclause (II), the eligible area or portion shall be considered to meet the standard described in clause (ii)(I). No other eligible area or portion thereof may be considered to meet such standard.

“(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

“(ix) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

“(I) CASES OF AIDS.—With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

“(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2010 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2009.

“(x) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.”.

(c) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)), as amended by subsection (b)(2) of this section, is amended by adding at the end the following subparagraph:

“(D) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—

“(i) IN GENERAL.—For each of the fiscal years 2007 through 2009, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

“(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant for the area that would have been made pursuant to this paragraph and paragraph (4) for

fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘66% percent’ for ‘50 percent’; and

“(II) for each of the fiscal years 2008 and 2009, exceed by more than 5 percent the amount of the grant pursuant to this paragraph and paragraph (4) for the area for the preceding fiscal year.

“(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2009, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).”.

(d) HOLD HARMLESS.—Section 2603(a) of the Public Health Service Act (42 U.S.C. 300ff-13(a)) is amended—

(1) in paragraph (3)(A)—

(A) in clause (ii), by striking the period at the end and inserting a semicolon; and

(B) by inserting after and below clause (ii) the following:

“which product shall then, as applicable, be increased under paragraph (4).”.

(2) by amending paragraph (4) to read as follows:

“(4) INCREASES IN GRANT.—

“(A) IN GENERAL.—For each eligible area that received a grant pursuant to this subsection for fiscal year 2006, the Secretary shall, for each of the fiscal years 2007 through 2009, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the fiscal year involved is not less than the following amount, as applicable to such fiscal year:

“(i) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘66% percent’ for ‘50 percent’.

“(ii) For each of the fiscal years 2008 and 2009, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2007.

“(B) SOURCE OF FUNDS FOR INCREASE.—

“(i) IN GENERAL.—From the amounts available for carrying out the single program referred to in section 2609(d)(2)(C) for a fiscal year (relating to supplemental grants), the Secretary shall make available such amounts as may be necessary to comply with subparagraph (A), subject to section 2610(d)(2).

“(ii) PRO RATA REDUCTION.—If the amounts referred to in clause (i) for a fiscal year are insufficient to fully comply with subparagraph (A) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to this subsection for the fiscal year, other than grants for eligible areas for which increases under subparagraph (A) apply. A reduction under the preceding sentence may not be made in an amount that would result in the eligible area involved becoming eligible for such an increase.

“(C) LIMITATION.—This paragraph may not be construed as having any applicability after fiscal year 2009.”.

#### SEC. 103. TYPE AND DISTRIBUTION OF GRANTS; SUPPLEMENTAL GRANTS.

Section 2603(b) of the Public Health Service Act (42 U.S.C. 300ff-13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Not later than” and all that follows through “the Secretary shall” and inserting the following: “Subject to sub-

section (a)(4)(B)(i) and section 2610(d), the Secretary shall”;

(B) in subparagraph (B), by striking “demonstrates the severe need in such area” and inserting “demonstrates the need in such area, on an objective and quantified basis,”;

(C) by striking subparagraph (F) and inserting the following:

“(F) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS,”;

(D) in subparagraph (G), by striking the period and inserting “; and”; and

(E) by adding at the end the following:

“(H) demonstrates the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than 2 percent of grant funds under such subsection canceled or covered by any waivers under subsection (c)(3).”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “severe need” and inserting “demonstrated need”;

(B) by striking subparagraph (B) and inserting the following:

“(B) DEMONSTRATED NEED.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of paragraph (1)(B) may include any or all of the following:

“(i) The unmet need for such services, as determined under section 2602(b)(4) or other community input process as defined under section 2609(d)(1)(A).

“(ii) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

“(iii) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

“(iv) The current prevalence of HIV/AIDS.

“(v) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

“(vi) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

“(vii) The prevalence of homelessness.

“(viii) The prevalence of individuals described under section 2602(b)(2)(M).

“(ix) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

“(x) The impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this title.”; and

(C) by striking subparagraphs (C) and (D) and inserting the following:

“(C) PRIORITY IN MAKING GRANTS.—The Secretary shall provide funds under this subsection to an eligible area to address the decline or disruption of all EMA-provided services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.”.

#### SEC. 104. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

Section 2603 of the Public Health Service Act (42 U.S.C. 300ff-13) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

“(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

“(1) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made

pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the area (referred to in this subsection as the ‘grant year for the award’), except as provided in paragraph (3)(A).

“(2) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (b) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award—

“(A) the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area; and

“(B) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

“(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

“(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

“(i) before the end of the grant year, the chief elected official of the area submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

“(ii) the Secretary approves the waiver.

“(B) EXPENDITURE BY END OF CARRYOVER YEAR.—With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award:

“(i) The unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year (referred to in this subsection as the ‘carryover year’).

“(ii) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

“(C) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B)(ii), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

“(D) CORRESPONDING REDUCTION IN FUTURE GRANT.—

“(i) IN GENERAL.—In the case of an eligible area for which a balance from a grant award

under subsection (a) is unobligated as of the end of the grant year for the award—

“(I) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

“(II) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants pursuant to subsection (b) for such first fiscal year, subject to subsection (a)(4) and section 2610(d)(2);

except that this clause does not apply to the eligible area if the amount of the unobligated balance was 2 percent or less.

“(ii) RELATION TO INCREASES IN GRANT.—A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year.”; and

(3) by adding at the end the following:

“(e) REPORT ON THE AWARDING OF SUPPLEMENTAL FUNDS.—Not later than 45 days after the awarding of supplemental funds under this section, the Secretary shall submit to Congress a report concerning such funds. Such report shall include information detailing—

“(1) the total amount of supplemental funds available under this section for the year involved;

“(2) the amount of supplemental funds used in accordance with the hold harmless provisions of subsection (a)(4);

“(3) the amount of supplemental funds disbursed pursuant to subsection (b)(2)(C);

“(4) the disbursement of the remainder of the supplemental funds after taking into account the uses described in paragraphs (2) and (3); and

“(5) the rationale used for the amount of funds disbursed as described under paragraphs (2), (3), and (4).”.

#### SEC. 105. USE OF AMOUNTS.

Section 2604 of the Public Health Service Act (42 U.S.C. 300ff-14) is amended to read as follows:

#### “SEC. 2604. USE OF AMOUNTS.

“(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

“(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(C), by the HIV health services planning council that serves such eligible area;

“(2) funds provided under section 2601 will be expended only for—

“(A) core medical services described in subsection (c);

“(B) support services described in subsection (d); and

“(C) administrative expenses described in subsection (h); and

“(3) the use of such funds will comply with the requirements of this section.

“(b) DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE ENTITIES.—

“(1) IN GENERAL.—The chief elected official of an eligible area shall use amounts from a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

“(2) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under para-

graph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

“(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

“(1) IN GENERAL.—With respect to a grant under section 2601 for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

“(2) WAIVER.—

“(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

“(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

“(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

“(B) NOTIFICATION OF WAIVER STATUS.—When informing the chief elected official of an eligible area that a grant under section 2601 is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

“(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual), means the following services:

“(A) Outpatient and ambulatory health services.

“(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

“(C) AIDS pharmaceutical assistance.

“(D) Oral health care.

“(E) Early intervention services described in subsection (e).

“(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

“(G) Home health care.

“(H) Medical nutrition therapy.

“(I) Hospice services.

“(J) Home and community-based health services as defined under section 2614(c).

“(K) Mental health services.

“(L) Substance abuse outpatient care.

“(M) Medical case management, including treatment adherence services.

“(d) SUPPORT SERVICES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘support services’ means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

“(2) MEDICAL OUTCOMES.—In this subsection, the term ‘medical outcomes’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

“(e) EARLY INTERVENTION SERVICES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘early intervention services’ means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The

entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

“(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

“(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

“(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

“(f) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

“(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

“(2) WAIVER.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicare program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

“(g) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

“(1) PROVISION OF SERVICE.—Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

“(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

“(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

“(2) WAIVER.—

“(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party

payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

“(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

“(h) ADMINISTRATION.—

“(1) LIMITATION.—The chief elected official of an eligible area shall not use in excess of 10 percent of amounts received under a grant under this part for administrative expenses.

“(2) ALLOCATIONS BY CHIEF ELECTED OFFICIAL.—In the case of entities and subcontractors to which the chief elected official of an eligible area allocates amounts received by the official under a grant under this part, the official shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

“(3) ADMINISTRATIVE ACTIVITIES.—For purposes of paragraph (1), amounts may be used for administrative activities that include—

“(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursement of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

“(B) all activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council as established under section 2602(b), the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

“(4) SUBCONTRACTOR ADMINISTRATIVE ACTIVITIES.—For the purposes of this subsection, subcontractor administrative activities include—

“(A) usual and recognized overhead activities, including established indirect rates for agencies;

“(B) management oversight of specific programs funded under this title; and

“(C) other types of program support such as quality assurance, quality control, and related activities.

“(5) CLINICAL QUALITY MANAGEMENT.—

“(A) REQUIREMENT.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

“(B) USE OF FUNDS.—

“(i) IN GENERAL.—From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management

program required in subparagraph (A) not to exceed the lesser of—

“(I) 5 percent of amounts received under the grant; or

“(II) \$3,000,000.

“(ii) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under subparagraph (A) may not be considered administrative expenses for purposes of the limitation established in paragraph (1).

“(i) CONSTRUCTION.—A chief elected official may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.”

#### SEC. 106. ADDITIONAL AMENDMENTS TO PART A.

(a) REPORTING OF CASES.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended by striking “for the most recent period” and inserting “during the most recent period”.

(b) PLANNING COUNCIL REPRESENTATION.—Section 2602(b)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff-12(b)(2)(G)) is amended by inserting “, members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C” after “disease”.

(c) APPLICATION FOR GRANT.—

(1) PAYER OF LAST RESORT.—Section 2605(a)(6)(A) of the Public Health Service Act (42 U.S.C. 300ff-15(a)(6)(A)) is amended by inserting “(except for a program administered by or providing the services of the Indian Health Service)” before the semicolon.

(2) AUDITS.—Section 2605(a) of the Public Health Service Act (42 U.S.C. 300ff-15(a)) is amended—

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(10) that the chief elected official will submit to the lead State agency under section 2617(b)(4), audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this part every 2 years and shall include necessary client-based data to compile unmet need calculations and Statewide coordinated statements of need process.”

(3) COORDINATION.—Section 2605(b) of the Public Health Service Act (42 U.S.C. 300ff-15(b)) is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(5) the manner in which the expected expenditures are related to the planning process for States that receive funding under part B (including the planning process described in section 2617(b)); and

“(6) the expected expenditures and how those expenditures will improve overall client outcomes, as described under the State plan under section 2617(b), and through additional outcomes measures as identified by the HIV health services planning council under section 2602(b).”

#### SEC. 107. NEW PROGRAM IN PART A; TRANSITIONAL GRANTS FOR CERTAIN AREAS INELIGIBLE UNDER SECTION 2601.

(a) IN GENERAL.—Part A of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11) is amended—

(1) by inserting after the part heading the following:

“Subpart I—General Grant Provisions”; and

(2) by adding at the end the following:

#### “Subpart II—Transitional Grants

##### “SEC. 2609. ESTABLISHMENT OF PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of providing services described in section 2604 in transitional areas, subject to the same provisions regarding the allocation of grant funds as apply under subsection (c) of such section.

“(b) TRANSITIONAL AREAS.—For purposes of this section, the term ‘transitional area’ means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

“(c) CERTAIN ELIGIBILITY RULES.—

“(1) FISCAL YEAR 2007.—With respect to grants under subsection (a) for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

“(2) CONTINUED STATUS AS TRANSITIONAL AREA.—

“(A) IN GENERAL.—Notwithstanding subsection (b), a metropolitan area that is a transitional area for a fiscal year continues, except as provided in subparagraph (B), to be a transitional area until the metropolitan area fails, for three consecutive fiscal years—

“(i) to qualify under such subsection as a transitional area; and

“(ii) to have a cumulative total of 1,500 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data are available.

“(B) EXCEPTION REGARDING STATUS AS ELIGIBLE AREA.—Subparagraph (A) does not apply for a fiscal year if the metropolitan area involved qualifies under subpart I as an eligible area.

“(d) APPLICATION OF CERTAIN PROVISIONS OF SUBPART I.—

“(1) ADMINISTRATION; PLANNING COUNCIL.—

“(A) IN GENERAL.—The provisions of section 2602 apply with respect to a grant under subsection (a) for a transitional area to the same extent and in the same manner as such provisions apply with respect to a grant under subpart I for an eligible area, except that, subject to subparagraph (B), the chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant under subsection (a).

“(B) EXCEPTION.—For each of the fiscal years 2007 through 2009, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

“(2) TYPE AND DISTRIBUTION OF GRANTS; TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

“(A) FORMULA GRANTS; SUPPLEMENTAL GRANTS.—The provisions of section 2603 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I, subject to subparagraphs (B) and (C).

“(B) FORMULA GRANTS; INCREASE IN GRANT.—For purposes of subparagraph (A), section 2603(a)(4) does not apply.

“(C) SUPPLEMENTAL GRANTS; SINGLE PROGRAM WITH SUBPART I PROGRAM.—With respect to section 2603(b) as applied for purposes of subparagraph (A):

“(i) The Secretary shall combine amounts available pursuant to such subparagraph with amounts available for carrying out section 2603(b) and shall administer the two programs as a single program.

“(ii) In the single program, the Secretary has discretion in allocating amounts between eligible areas under subpart I and transitional areas under this section, subject to the eligibility criteria that apply under such section, and subject to section 2603(b)(2)(C) (relating to priority in making grants).

“(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under sections 2603(a)(4) and 2610(d)(1).

“(3) APPLICATION; TECHNICAL ASSISTANCE; DEFINITIONS.—The provisions of sections 2605, 2606, and 2607 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I.”.

(b) CONFORMING AMENDMENTS.—Subpart I of part A of title XXVI of the Public Health Service Act, as designated by subsection (a)(1) of this section, is amended by striking “this part” each place such term appears and inserting “this subpart”.

#### SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Part A of title XXVI of the Public Health Service Act, as amended by section 106(a), is amended by adding at the end the following:

##### “Subpart III—General Provisions

#### “SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated \$604,000,000 for fiscal year 2007, \$626,300,000 for fiscal year 2008, and \$649,500,000 for fiscal year 2009. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

“(b) RESERVATION OF AMOUNTS.—

“(1) FISCAL YEAR 2007.—Of the amount appropriated under subsection (a) for fiscal year 2007, the Secretary shall reserve—

“(A) \$458,310,000 for grants under subpart I; and

“(B) \$145,690,000 for grants under section 2609.

“(2) SUBSEQUENT FISCAL YEARS.—Of the amount appropriated under subsection (a) for fiscal year 2008 and each subsequent fiscal year—

“(A) the Secretary shall reserve an amount for grants under subpart I; and

“(B) the Secretary shall reserve an amount for grants under section 2609.

“(c) TRANSFER OF CERTAIN AMOUNTS; CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.—Notwithstanding subsection (b):

“(1) If a metropolitan area is an eligible area under subpart I for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2601(b)—

“(A)(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for the first such subsequent year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year; and

“(ii)(I) if the metropolitan area qualifies for such first subsequent fiscal year as a transitional area under 2609, the amount re-

served under paragraph (1)(B) or (2)(B) of subsection (b) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year; or

“(II) if the metropolitan area does not qualify for such first subsequent fiscal year as a transitional area under 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623; and

“(B) if a transfer under subparagraph (A)(ii)(II) is made with respect to the metropolitan area for such first subsequent fiscal year, then—

“(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for such year is deemed to be reduced by an additional \$500,000; and

“(ii) an amount equal to the amount of such additional reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

“(2) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be a transitional area by reason of section 2609(c)(2) (and does not qualify for such subsequent fiscal year as an eligible area under subpart I)—

“(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of not being a transitional area is deemed to be reduced by an amount equal to the total of—

“(i) the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

“(ii) \$500,000; and

“(B) an amount equal to the amount of the reduction under subparagraph (A) for such year is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

“(3) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year qualifies as an eligible area under subpart I—

“(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of becoming an eligible area is deemed to be reduced by an amount equal to the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

“(B) the amount reserved under subsection (b)(2)(A) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year.

“(d) CERTAIN TRANSFERS; ALLOCATIONS BETWEEN PROGRAMS UNDER SUBPART I.—With respect to paragraphs (1)(B)(i) and (2)(A)(ii) of subsection (c), the Secretary shall administer any reductions under such paragraphs for a fiscal year in accordance with the following:

“(1) The reductions shall be made from amounts available for the single program referred to in section 2609(d)(2)(C) (relating to supplemental grants).

“(2) The reductions shall be made before the amounts referred to in paragraph (1) are used for purposes of section 2603(a)(4).

“(3) If the amounts referred to in paragraph (1) are not sufficient for making all the reductions, the reductions shall be reduced until the total amount of the reduc-

tions equals the total of the amounts referred to in such paragraph.

“(e) RULES OF CONSTRUCTION REGARDING FIRST SUBSEQUENT FISCAL YEAR.—Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year becomes an eligible area under subpart I, rather than applying to a single such series.”.

## TITLE II—CARE GRANTS

### SEC. 201. GENERAL USE OF GRANTS.

(a) IN GENERAL.—Section 2612 of the Public Health Service Act (42 U.S.C. 300ff-22) is amended to read as follows:

#### “SEC. 2612. GENERAL USE OF GRANTS.

“(a) IN GENERAL.—A State may use amounts provided under grants made under section 2611 for—

“(1) core medical services described in subsection (b);

“(2) support services described in subsection (c); and

“(3) administrative expenses described in section 2618(b)(3).

“(b) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

“(1) IN GENERAL.—With respect to a grant under section 2611 for a State for a grant year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of subparagraphs (A) and (E)(ii)(I) of section 2618(b)(3), use not less than 75 percent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

“(2) WAIVER.—

“(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a State for a grant year if the Secretary determines that, within the State—

“(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

“(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

“(B) NOTIFICATION OF WAIVER STATUS.—When informing a State that a grant under section 2611 is being made to the State for a fiscal year, the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect for the fiscal year.

“(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual infected with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

“(A) Outpatient and ambulatory health services.

“(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

“(C) AIDS pharmaceutical assistance.

“(D) Oral health care.

“(E) Early intervention services described in subsection (d).

“(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

“(G) Home health care.

“(H) Medical nutrition therapy.

“(I) Hospice services.

“(J) Home and community-based health services as defined under section 2614(c).



“(K) Mental health services.

“(L) Substance abuse outpatient care.

“(M) Medical case management, including treatment adherence services.

“(c) SUPPORT SERVICES.—

“(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

“(2) DEFINITION OF MEDICAL OUTCOMES.—In this subsection, the term ‘medical outcomes’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

“(d) EARLY INTERVENTION SERVICES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘early intervention services’ means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by States, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

“(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the State involved that—

“(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

“(B) the entity will expend funds pursuant to such subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

“(e) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

“(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, a State shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

“(2) WAIVER.—With respect to the population involved, the Secretary may provide to a State a waiver of the requirement of paragraph (1) if such State demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State Medicaid program under title XIX of the Social Security Act, the State children’s health insurance program under title XXI of such Act, or other Federal or State programs.

“(f) CONSTRUCTION.—A State may not use amounts received under a grant awarded under section 2611 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to

make cash payments to intended recipients of services.”

(b) HIV CARE CONSORTIA.—Section 2613 of the Public Health Service Act (42 U.S.C. 300ff-23) is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by striking “may use” and inserting “may, subject to subsection (f), use”; and

(B) by striking “section 2612(a)(1)” and inserting “section 2612(a)”; and

(2) by adding at the end the following subsection:

“(f) ALLOCATION OF FUNDS; TREATMENT AS SUPPORT SERVICES.—For purposes of the requirement of section 2612(b)(1), expenditures of grants under section 2611 for or through consortia under this section are deemed to be support services, not core medical services. The preceding sentence may not be construed as having any legal effect on the provisions of subsection (a) that relate to authorized expenditures of the grant.”

(c) TECHNICAL AMENDMENTS.—Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended—

(1) in section 2611—

(A) in subsection (a), by striking the subsection designation and heading; and

(B) by striking subsection (b);

(2) in section 2614—

(A) in subsection (a), in the matter preceding paragraph (1), by striking “section 2612(a)(2)” and inserting “section 2612(b)(3)(J)”; and

(B) in subsection (c)(2)(B), by striking “homemaker or”;

(3) in section 2615(a) by striking “section 2612(a)(3)” and inserting “section 2612(b)(3)(F)”; and

(4) in section 2616(a) by striking “section 2612(a)(5)” and inserting “section 2612(b)(3)(B)”.

#### SEC. 202. AIDS DRUG ASSISTANCE PROGRAM.

(a) REQUIREMENT OF MINIMUM DRUG LIST.—Section 2616 of the Public Health Service Act (42 U.S.C. 300ff-26) is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) ensure that the therapeutics included on the list of classes of core antiretroviral therapeutics established by the Secretary under subsection (e) are, at a minimum, the treatments provided by the State pursuant to this section;”

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

“(e) LIST OF CLASSES OF CORE ANTIRETROVIRAL THERAPEUTICS.—For purposes of subsection (c)(1), the Secretary shall develop and maintain a list of classes of core antiretroviral therapeutics, which list shall be based on the therapeutics included in the guidelines of the Secretary known as the Clinical Practice Guidelines for Use of HIV/AIDS Drugs, relating to drugs needed to manage symptoms associated with HIV. The preceding sentence does not affect the authority of the Secretary to modify such Guidelines.”

(b) DRUG REBATE PROGRAM.—Section 2616 of the Public Health Service Act, as amended by subsection (a)(2) of this section, is amended by adding at the end the following:

“(g) DRUG REBATE PROGRAM.—A State shall ensure that any drug rebates received on drugs purchased from funds provided pursuant to this section are applied to activities supported under this subpart, with priority given to activities described under this section.”

#### SEC. 203. DISTRIBUTION OF FUNDS.

(a) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—

(1) STATE DISTRIBUTION FACTOR.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)) is amended—

(A) in subparagraph (B), by striking “estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved” and inserting “number of living cases of HIV/AIDS in the State involved”; and

(B) by amending subparagraph (D) to read as follows:

“(D) LIVING CASES OF HIV/AIDS.—

“(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for a State for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS in the State that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

“(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through 2009, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

“(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State, subject to clause (vii); or

“(II) no later than the beginning of fiscal year 2008 or 2009, the Secretary, after consultation with the chief executive of the State, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

“(iii) REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.—For fiscal year 2007, an exemption under clause (ii) for a State applies only if, by October 1, 2006—

“(I)(aa) the State had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

“(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

“(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

“(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

“(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

“(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

“(I) IN GENERAL.—With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as ‘code-based reporting’), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the State in order to adjust for duplicative reporting in and among systems that use code-based reporting.

“(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for a State shall be

a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the State.

“(vii) LIST OF STATES MEETING STANDARD REGARDING DECEMBER 31, 2005.—

“(I) IN GENERAL.—If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

“(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

“(viii) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

“(I) CASES OF AIDS.—With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

“(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (vii) may not be construed as having any legal effect for fiscal year 2010 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2009.

“(ix) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.”

(2) NON-EMA DISTRIBUTION FACTOR.—Section 2618(a)(2)(C) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)(C)) is amended—

(A) in clause (i), by striking “estimated number of living cases of acquired immune deficiency syndrome” each place such term appears and inserting “number of living cases of HIV/AIDS”; and

(B) in clause (ii), by amending such clause to read as follows:

“(ii) a number equal to the sum of—

“(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 2601 for the area for such fiscal year; and

“(II) the total number of such cases that are within areas in such State that are transitional areas under section 2609 for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.”

(b) FORMULA AMENDMENTS GENERALLY.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking “The amount referred to” in the matter preceding clause (i) and all that follows through the end of clause (i) and inserting the following: “For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

“(i) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (G); and”

(B) in clause (ii)—

(i) in subclause (I)—

(I) by striking “.80” and inserting “.75”; and

(II) by striking “and” at the end;

(ii) in subclause (II)—

(I) by inserting “non-EMA” after “respective”; and

(II) by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transitional area under section 2609 (referred to in this subclause as a ‘no-EMA State’), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that so apply for all no-EMA States.”;

(2) by striking subparagraphs (E) through (H);

(3) by inserting after subparagraph (D) the following subparagraphs:

“(E) CODE-BASED STATES; LIMITATION ON INCREASE IN GRANT.—

“(i) IN GENERAL.—For each of the fiscal years 2007 through 2009, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such fiscal year.

“(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2009, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to section 2620, subject to subparagraph (H).”; and

(4) by redesignating subparagraph (I) as subparagraph (F).

(c) SEPARATE ADAP GRANTS.—Section 2618(a)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)(G)), as redesignated by subsection (b)(4) of this section, is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking “section 2677” and inserting “section 2623”; and

(B) in subclause (II), by striking the period at the end and inserting a semicolon; and

(C) by adding after and below subclause (II) the following:

“which product shall then, as applicable, be increased under subparagraph (H).”; and

(2) in clause (ii)—

(A) by striking subclauses (I) through (III) and inserting the following:

“(I) IN GENERAL.—From amounts made available under subclause (V), the Secretary shall award supplemental grants to States described in subclause (II) to enable such States to purchase and distribute to eligible individuals under section 2616(b) pharmaceutical therapeutics described under subsections (c)(2) and (e) of such section.

“(II) ELIGIBLE STATES.—For purposes of subclause (I), a State shall be an eligible State if the State did not have unobligated funds subject to reallocation under section 2618(d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause. For purposes of determining severe need, the Secretary shall

consider eligibility standards, formulary composition, the number of eligible individuals to whom a State is unable to provide therapeutics described in section 2616(a), and an unanticipated increase of eligible individuals with HIV/AIDS.

“(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under this clause unless the State agrees that the State will make available (directly or through donations of public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to \$1 for each \$4 of Federal funds provided in the grant, except that the Secretary may waive this subclause if the State has otherwise fully complied with section 2617(d) with respect to the grant year involved. The provisions of this subclause shall apply to States that are not required to comply with such section 2617(d).”

(B) in subclause (IV), by moving the subclause two ems to the left;

(C) in subclause (V), by striking “3 percent” and inserting “5 percent”; and

(D) by striking subclause (VI); and

(3) by adding at the end the following clause:

“(iii) CODE-BASED STATES; LIMITATION ON INCREASE IN FORMULA GRANT.—The limitation under subparagraph (E)(i) applies to grants pursuant to clause (i) of this subparagraph to the same extent and in the same manner as such limitation applies to grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this clause. Amounts available as a result of the limitation under the preceding sentence shall be made available by the Secretary as additional amounts for grants under clause (ii) of this subparagraph.”

(d) HOLD HARMLESS.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)), as amended by subsection (b)(4) of this section, is amended by adding at the end the following subparagraph:

“(H) INCREASE IN FORMULA GRANTS.—

“(i) ASSURANCE OF AMOUNT.—

“(I) GENERAL RULE.—For fiscal year 2007, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 95 percent of such total for the State for fiscal year 2006.

“(II) RULE OF CONSTRUCTION.—With respect to the application of subclause (I), the 95 percent requirement under such subclause shall apply with respect to each grant awarded under paragraph (1) and with respect to each grant awarded under subparagraph (G).

“(ii) FISCAL YEAR 2007.—For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.

“(iii) FISCAL YEARS 2008 AND 2009.—For each of the fiscal years 2008 and 2009, the Secretary shall ensure that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 100 percent of such total for the State for fiscal year 2007.

“(iv) SOURCE OF FUNDS FOR INCREASE.—

“(I) IN GENERAL.—From the amount reserved under section 2623(b)(2) for a fiscal year, and from amounts available for such section pursuant to subsection (d) of this section, the Secretary shall make available such amounts as may be necessary to comply with clause (i).

“(II) PRO RATA REDUCTION.—If the amounts referred to in subclause (I) for a fiscal year are insufficient to fully comply with clause (i) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata



basis the amount of each grant pursuant to paragraph (1) for the fiscal year, other than grants for States for which increases under clause (i) apply and other than States described in paragraph (1)(A)(i)(I). A reduction under the preceding sentence may not be made in an amount that would result in the State involved becoming eligible for such an increase.

“(v) **APPLICABILITY.**—This paragraph may not be construed as having any applicability after fiscal year 2009.”.

(e) **ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT.**—Section 2618(b) of the Public Health Service Act (42 U.S.C. 300ff-28(b)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6);

(2) in paragraph (2) (as so redesignated)—

(A) by striking “paragraph (5)” and inserting “paragraph (4)”;

(B) by striking “paragraph (6)” and inserting “paragraph (5)”;

(3) in paragraph (3) (as so redesignated)—

(A) by amending subparagraph (A) to read as follows:

“(A) **IN GENERAL.**—Subject to paragraph (4), and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 2611 for administration.”;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

“(B) **ALLOCATIONS.**—In the case of entities and subcontractors to which a State allocates amounts received by the State under a grant under section 2611, the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).”;

(D) in subparagraph (C) (as so redesignated), by inserting before the period the following: “, including a clinical quality management program under subparagraph (E)”;

and

(E) by adding at the end the following:

“(E) **CLINICAL QUALITY MANAGEMENT.**—

“(i) **REQUIREMENT.**—Each State that receives a grant under section 2611 shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

“(ii) **USE OF FUNDS.**—

“(I) **IN GENERAL.**—From amounts received under a grant awarded under section 2611 for a fiscal year, a State may use for activities associated with the clinical quality management program required in clause (i) not to exceed the lesser of—

“(aa) 5 percent of amounts received under the grant; or

“(bb) \$3,000,000.

“(II) **RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.**—The costs of a clinical quality management program under clause (i) may not be considered administrative expenses for purposes of the limitation established in subparagraph (A).”;

(4) in paragraph (4) (as so redesignated)—

(A) by striking “paragraph (6)” and inserting “paragraph (5)”;

(B) by striking “paragraphs (3) and (4)” and inserting “paragraphs (2) and (3)”;

(5) in paragraph (5) (as so redesignated), by striking “paragraphs (3)” and all that follows through “(5),” and inserting the following: “paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4),”.

(f) **REALLOCATION FOR SUPPLEMENTAL GRANTS.**—Section 2618(d) of the Public Health Service Act (42 U.S.C. 300ff-28(d)) is amended to read as follows:

“(d) **REALLOCATION.**—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as described in subsection (c) ceases to be available to the State and shall be made available by the Secretary for grants under section 2620, in addition to amounts made available for such grants under section 2623(b)(2).”.

(g) **DEFINITIONS; OTHER TECHNICAL AMENDMENTS.**—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff-28(a)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “section 2677” and inserting “section 2623”;

(2) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by striking “each of the several States and the District of Columbia” and inserting “each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a ‘covered State’)”; and

(B) in clause (i)—

(i) in subclause (I), by striking “State or District” and inserting “covered State”; and

(ii) in subclause (II)—

(I) by striking “State or District” and inserting “covered State”; and

(II) by inserting “and” after the semicolon; and

(3) in paragraph (1)(B), by striking “each territory of the United States, as defined in paragraph (3),” and inserting “each territory other than Guam and the Virgin Islands”;

(4) in paragraph (2)(C)(i), by striking “or territory”; and

(5) by striking paragraph (3).

#### **SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART I OF PART B.**

(a) **REFERENCES TO PART B.**—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended by striking “this part” each place such term appears and inserting “section 2611”.

(b) **HEPATITIS.**—Section 2614(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-24(a)(3)) is amended by inserting “, including specialty care and vaccinations for hepatitis co-infection,” after “health services”.

(c) **APPLICATION FOR GRANT.**—

(1) **COORDINATION.**—Section 2617(b) of the Public Health Service Act (42 U.S.C. 300ff-27(b)) is amended—

(A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(B) by inserting after paragraph (3), the following:

“(4) the designation of a lead State agency that shall—

“(A) administer all assistance received under this part;

“(B) conduct the needs assessment and prepare the State plan under paragraph (3);

“(C) prepare all applications for assistance under this part;

“(D) receive notices with respect to programs under this title;

“(E) every 2 years, collect and submit to the Secretary all audits, consistent with Office of Management and Budget circular A133, from grantees within the State, including audits regarding funds expended in accordance with this part; and

“(F) carry out any other duties determined appropriate by the Secretary to facilitate the coordination of programs under this title.”;

(C) in paragraph (5) (as so redesignated)—

(i) in subparagraph (E), by striking “and” at the end; and

(ii) by inserting after subparagraph (F) the following:

“(G) includes key outcomes to be measured by all entities in the State receiving assistance under this title; and”;

(D) in paragraph (7) (as so redesignated), in subparagraph (A)—

(i) by striking “paragraph (5)” and inserting “paragraph (6)”;

(ii) by striking “paragraph (4)” and inserting “paragraph (5)”.

(2) **NATIVE AMERICAN REPRESENTATION.**—Section 2617(b)(6) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before “representatives of grantees” the following: “members of a Federally recognized Indian tribe as represented in the State.”.

(3) **PAYER OF LAST RESORT.**—Section 2617(b)(7)(F)(ii) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before the semicolon the following: “(except for a program administered by or providing the services of the Indian Health Service)”.

(d) **MATCHING FUNDS; APPLICABILITY OF REQUIREMENT.**—Section 2617(d)(3) of the Public Health Service Act (42 U.S.C. 300ff-27(d)(3)) is amended—

(1) in subparagraph (A), by striking “acquired immune deficiency syndrome” and inserting “HIV/AIDS”; and

(2) in subparagraph (C), by striking “acquired immune deficiency syndrome” and inserting “HIV/AIDS”.

#### **SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF DEMONSTRATED NEED.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended—

(1) by redesignating section 2620 as section 2621; and

(2) by inserting after section 2619 the following:

#### **“SEC. 2620. SUPPLEMENTAL GRANTS.**

“(a) **IN GENERAL.**—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States—

“(1) whose applications under section 2617 have demonstrated the need in the State, on an objective and quantified basis, for supplemental financial assistance to provide such services; and

“(2) that did not, for the most recent grant year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) for which data is available, have more than 2 percent of grant funds under such sections canceled or covered by any waivers under section 2622(c).

“(b) **DEMONSTRATED NEED.**—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of subsection (a)(1) may include any or all of the following:

“(1) The unmet need for such services, as determined under section 2617(b).

“(2) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

“(3) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

“(4) The current prevalence of HIV/AIDS.

“(5) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

“(6) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

“(7) The prevalence of homelessness.

“(8) The prevalence of individuals described under section 2602(b)(2)(M).

“(9) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

“(10) The impact of a decline in the amount received pursuant to section 2618 on services available to all individuals with HIV/AIDS identified and eligible under this title.

“(c) **PRIORITY IN MAKING GRANTS.**—The Secretary shall provide funds under this section to a State to address the decline in services related to the decline in the amounts received pursuant to section 2618 consistent with the grant award to the State for fiscal year 2006, to the extent that the factor under subsection (b)(10) (relating to a decline in funding) applies to the State.

“(d) **REPORT ON THE AWARDING OF SUPPLEMENTAL FUNDS.**—Not later than 45 days after the awarding of supplemental funds under this section, the Secretary shall submit to Congress a report concerning such funds. Such report shall include information detailing—

“(1) the total amount of supplemental funds available under this section for the year involved;

“(2) the amount of supplemental funds used in accordance with the hold harmless provisions of section 2618(a)(2);

“(3) the amount of supplemental funds disbursed pursuant to subsection (c);

“(4) the disbursement of the remainder of the supplemental funds after taking into account the uses described in paragraphs (2) and (3); and

“(5) the rationale used for the amount of funds disbursed as described under paragraphs (2), (3), and (4).

“(e) **CORE MEDICAL SERVICES.**—The provisions of section 2612(b) apply with respect to a grant under this section to the same extent and in the same manner as such provisions apply with respect to a grant made pursuant to section 2618(a)(1).

“(f) **APPLICABILITY OF GRANT AUTHORITY.**—The authority to make grants under this section applies beginning with the first fiscal year for which amounts are made available for such grants under section 2623(b)(1).”

#### **SEC. 206. EMERGING COMMUNITIES.**

Section 2621 of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

(1) in the heading for the section, by striking “**SUPPLEMENTAL GRANTS**” and inserting “**EMERGING COMMUNITIES**”;

(2) in subsection (b)—

(A) in paragraph (2), by striking “and” at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

“(3) agree that the grant will be used to provide funds directly to emerging communities in the State, separately from other funds under this title that are provided by the State to such communities; and”.

(3) by striking subsections (d) and (e) and inserting the following:

“(d) **DEFINITIONS OF EMERGING COMMUNITY.**—For purposes of this section, the term ‘emerging community’ means a metropolitan area (as defined in section 2607) for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

“(e) **CONTINUED STATUS AS EMERGING COMMUNITY.**—Notwithstanding any other provision of this section, a metropolitan area that is an emerging community for a fiscal year continues to be an emerging community

until the metropolitan area fails, for three consecutive fiscal years—

“(1) to meet the requirements of subsection (d); and

“(2) to have a cumulative total of 750 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

“(f) **DISTRIBUTION.**—The amount of a grant under subsection (a) for a State for a fiscal year shall be an amount equal to the product of—

“(1) the amount available under section 2623(b)(1) for the fiscal year; and

“(2) a percentage equal to the ratio constituted by the number of living cases of HIV/AIDS in emerging communities in the State to the sum of the respective numbers of such cases in such communities for all States.”.

#### **SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as amended by section 205, is further amended by adding at the end the following:

##### **“SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.**

“(a) **OBLIGATION BY END OF GRANT YEAR.**—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G), or under section 2620 or 2621, are available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the ‘grant year for the award’), except as provided in subsection (c)(1).

“(b) **SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.**—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(2)(G)(ii), or under section 2620 or 2621, has an unobligated balance as of the end of the grant year for the award—

“(1) the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State; and

“(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under paragraph (1) to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

“(c) **FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.**—

“(1) **IN GENERAL.**—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

“(A) before the end of the grant year, the State submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the State intends to expend the funds involved; and

“(B) the Secretary approves the waiver.

“(2) **EXPENDITURE BY END OF CARRYOVER YEAR.**—With respect to a waiver under para-

graph (1) that is approved for a balance that is unobligated as of the end of a grant year for an award:

“(A) The unobligated funds are available for expenditure by the State involved for the one-year period beginning upon the expiration of the grant year (referred to in this section as the ‘carryover year’).

“(B) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State.

“(3) **USE OF CANCELLED BALANCES.**—In the case of any balance of a grant award that is cancelled under paragraph (1) or (2)(B), the grant funds involved shall be made available by the Secretary as additional amounts for grants under section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such paragraph to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

“(4) **CORRESPONDING REDUCTION IN FUTURE GRANT.**—

“(A) **IN GENERAL.**—In the case of a State for which a balance from a grant award made pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) is unobligated as of the end of the grant year for the award—

“(i) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such section for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance); and

“(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants under section 2620 for such first fiscal year, subject to section 2618(a)(2)(H); except that this subparagraph does not apply to the State if the amount of the unobligated balance was 2 percent or less.

“(B) **RELATION TO INCREASES IN GRANT.**—A reduction under subparagraph (A) for a State for a fiscal year may not be taken into account in applying section 2618(a)(2)(H) with respect to the State for the subsequent fiscal year.

“(d) **TREATMENT OF DRUG REBATES.**—For purposes of this section, funds that are drug rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a).”.

#### **SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR SUBPART I OF PART B.**

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as amended by section 207, is further amended by adding at the end the following:

##### **“SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.**

“(a) **IN GENERAL.**—For the purpose of carrying out this subpart, there are authorized to be appropriated \$1,195,500,000 for fiscal year 2007, \$1,239,500,000 for fiscal year 2008, and \$1,285,200,000 for fiscal year 2009. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

“(b) **RESERVATION OF AMOUNTS.**—

“(1) **EMERGING COMMUNITIES.**—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve \$5,000,000 for grants under section 2621.

“(2) **SUPPLEMENTAL GRANTS.**—

“(A) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve  $\frac{1}{3}$  for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such year, and except that any amount appropriated exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(G)) is not subject to this subparagraph.

“(B) 2006 ADJUSTED AMOUNT.—For purposes of subparagraph (A), the term ‘2006 adjusted amount’ means the amount appropriated for fiscal year 2006 under section 2677(b) (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(I), as so in effect).”.

#### SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.

Section 2625 of the Public Health Service Act (42 U.S.C. 300ff-33) is amended to read as follows:

##### “SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.

“(a) IN GENERAL.—In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

“(b) DESCRIPTION OF COMPLIANT STATES.—For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if, under such laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, or both of the policies described in paragraph (2) are in effect, as follows:

“(1)(A) Voluntary opt-out testing of pregnant women.

“(B) Universal testing of newborns.

“(2)(A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

“(B) Voluntary opt-out testing of clients at substance abuse treatment centers. The Secretary shall periodically ensure that the applicable policies are being carried out and recertify compliance.

“(c) USE OF FUNDS.—A State may use funds provided under subsection (a) for HIV/AIDS testing (including rapid testing), prevention counseling, treatment of newborns exposed to HIV/AIDS, treatment of mothers infected with HIV/AIDS, and costs associated with linking those diagnosed with HIV/AIDS to care and treatment for HIV/AIDS.

“(d) APPLICATION.—A State that is eligible for the grant under subsection (a) shall submit an application to the Secretary, in such form, in such manner, and containing such information as the Secretary may require.

“(e) LIMITATION ON AMOUNT OF GRANT.—A grant under subsection (a) to a State for a fiscal year may not be made in an amount exceeding \$10,000,000.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to pre-empt State laws regarding HIV/AIDS counseling and testing.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘voluntary opt-out testing’ means HIV/AIDS testing—

“(A) that is administered to an individual seeking other health care services; and

“(B) in which—

“(i) pre-test counseling is not required but the individual is informed that the individual will receive an HIV/AIDS test and the individual may opt out of such testing; and

“(ii) for those individuals with a positive test result, post-test counseling (including referrals for care) is provided and confidentiality is protected.

“(2) The term ‘universal testing of newborns’ means HIV/AIDS testing that is administered within 48 hours of delivery to—

“(A) all infants born in the State; or

“(B) all infants born in the State whose mother’s HIV/AIDS status is unknown at the time of delivery.

“(h) AUTHORIZATION OF APPROPRIATIONS.—Of the funds appropriated annually to the Centers for Disease Control and Prevention for HIV/AIDS prevention activities, \$30,000,000 shall be made available for each of the fiscal years 2007 through 2009 for grants under subsection (a), of which \$20,000,000 shall be made available for grants to States with the policies described in subsection (b)(1), and \$10,000,000 shall be made available for grants to States with the policies described in subsection (b)(2). Funds provided under this section are available until expended.”.

#### SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS; AUTHORIZATION OF APPROPRIATIONS.

Section 2631(d) of the Public Health Service Act (42 U.S.C. 300ff-38(d)) is amended by striking “there are” and all that follows and inserting the following: “there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2009.”.

### TITLE III—EARLY INTERVENTION SERVICES

#### SEC. 301. ESTABLISHMENT OF PROGRAM; CORE MEDICAL SERVICES.

(a) IN GENERAL.—Section 2651 of the Public Health Service Act (42 U.S.C. 300ff-51) is amended to read as follows:

##### “SEC. 2651. ESTABLISHMENT OF A PROGRAM.

“(a) IN GENERAL.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a).

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant only for—

“(A) core medical services described in subsection (c);

“(B) support services described in subsection (d); and

“(C) administrative expenses as described in section 2664(g)(3).

“(2) EARLY INTERVENTION SERVICES.—An applicant for a grant under subsection (a) shall expend not less than 50 percent of the amount received under the grant for the services described in subparagraphs (B) through (E) of subsection (e)(1) for individuals with HIV/AIDS.

“(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

“(1) IN GENERAL.—With respect to a grant under subsection (a) to an applicant for a fiscal year, the applicant shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 2664(g), use not less than 75 percent to provide core medical services that are needed in the area involved for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

“(2) WAIVER.—

“(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant for a grant if the Secretary determines that, within the service area of the applicant—

“(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

“(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

“(B) NOTIFICATION OF WAIVER STATUS.—When informing an applicant that a grant

under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

“(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

“(A) Outpatient and ambulatory health services.

“(B) AIDS Drug Assistance Program treatments under section 2616.

“(C) AIDS pharmaceutical assistance.

“(D) Oral health care.

“(E) Early intervention services described in subsection (e).

“(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

“(G) Home health care.

“(H) Medical nutrition therapy.

“(I) Hospice services.

“(J) Home and community-based health services as defined under section 2614(c).

“(K) Mental health services.

“(L) Substance abuse outpatient care.

“(M) Medical case management, including treatment adherence services.

“(d) SUPPORT SERVICES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘support services’ means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

“(2) DEFINITION OF MEDICAL OUTCOMES.—In this section, the term ‘medical outcomes’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

“(e) SPECIFICATION OF EARLY INTERVENTION SERVICES.—

“(1) IN GENERAL.—The early intervention services referred to in this section are—

“(A) counseling individuals with respect to HIV/AIDS in accordance with section 2662;

“(B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

“(C) referrals described in paragraph (2);

“(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

“(E) providing the therapeutic measures described in subparagraph (B).

“(2) REFERRALS.—The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

“(A) to entities receiving amounts under part A or B for the provision of such services;

“(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

“(C) to grantees under section 2671, in the case of a pregnant woman.

“(3) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—

“(A) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of

the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or non-profit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

“(B) OTHER REQUIREMENTS.—Grantees described in—

“(i) subparagraphs (A), (D), (E), and (F) of section 2652(a)(1) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site or at sites where other primary care services are rendered; and

“(ii) subparagraphs (B) and (C) of section 2652(a)(1) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.”.

(b) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT PROGRAM.—Section 2664(g) of the Public Health Service Act (42 U.S.C. 300ff-64(g)) is amended—

(1) in paragraph (3), by amending the paragraph to read as follows:

“(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant, including planning and evaluation, except that the costs of a clinical quality management program under paragraph (5) may not be considered administrative expenses for purposes of such limitation;”;

(2) in paragraph (5), by inserting “clinical” before “quality management”.

#### SEC. 302. ELIGIBLE ENTITIES; PREFERENCES; PLANNING AND DEVELOPMENT GRANTS.

(a) MINIMUM QUALIFICATION OF GRANTEEES.—Section 2652(a) of the Public Health Service Act (42 U.S.C. 300ff-52(a)) is amended to read as follows:

“(a) ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—The entities referred to in section 2651(a) are public entities and non-profit private entities that are—

“(A) federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

“(B) grantees under section 1001 (regarding family planning) other than States;

“(C) comprehensive hemophilia diagnostic and treatment centers;

“(D) rural health clinics;

“(E) health facilities operated by or pursuant to a contract with the Indian Health Service;

“(F) community-based organizations, clinics, hospitals and other health facilities that provide early intervention services to those persons infected with HIV/AIDS through intravenous drug use; or

“(G) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV/AIDS, including faith-based and community-based organizations.

“(2) UNDERSERVED POPULATIONS.—Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.”.

(b) PREFERENCES IN MAKING GRANTS.—Section 2653 of the Public Health Service Act (42 U.S.C. 300ff-53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking “acquired immune deficiency syndrome” and inserting “HIV/AIDS”; and

(B) in subparagraph (D), by inserting before the semicolon the following: “and the number of cases of individuals co-infected with HIV/AIDS and hepatitis B or C”; and

(2) in subsection (d)(2), by striking “special consideration” and inserting “preference”.

(c) PLANNING AND DEVELOPMENT GRANTS.—Section 2654(c) of the Public Health Service Act (42 U.S.C. 300ff-54(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “HIV”; and

(B) in subparagraph (B), by striking “HIV” and inserting “HIV/AIDS”; and

(2) in paragraph (3), by striking “or underserved communities” and inserting “areas or to underserved populations”.

#### SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 of the Public Health Service Act (42 U.S.C. 300ff-55) is amended by striking “such sums” and all that follows through “2005” and inserting “, \$218,600,000 for fiscal year 2007, \$226,700,000 for fiscal year 2008, and \$235,100,000 for fiscal year 2009”.

#### SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.

Section 2661 of the Public Health Service Act (42 U.S.C. 300ff-61) is amended to read as follows:

##### “SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.

“(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

“(b) INFORMED CONSENT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.”.

#### SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.

Section 2662 of the Public Health Service Act (42 U.S.C. 300ff-62) is amended to read as follows:

##### “SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

“(a) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition, the applicant will provide the individual information, including—

“(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

“(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

“(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

“(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases;

“(5) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

“(6) information regarding the availability of hepatitis B vaccine and information about hepatitis treatments.

“(b) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide to the individual appropriate counseling regarding the condition, including—

“(1) information regarding—

“(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

“(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C; and

“(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

“(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

“(3) providing counseling—

“(A) on the availability, through the applicant, of early intervention services;

“(B) on the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

“(C)(i) that explains the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C and any individual whom the infected individual may have exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

“(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on the manner in which such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

“(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C);

“(4) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

“(5) information regarding the availability of hepatitis B vaccine.

“(c) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

“(d) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV/AIDS, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

“(e) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a

result of the grantee or the individual determining that such testing of the individual is not appropriate.”.

#### SEC. 306. GENERAL PROVISIONS.

(a) **APPLICABILITY OF CERTAIN REQUIREMENTS.**—Section 2663 of the Public Health Service Act (42 U.S.C. 300ff-63) is amended by striking “will, without” and all that follows through “be carried” and inserting “with funds appropriated through this Act will be carried”.

(b) **ADDITIONAL REQUIRED AGREEMENTS.**—Section 2664(a) of the Public Health Service Act (42 U.S.C. 300ff-64(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking “and” at the end; and

(C) by adding at the end the following:

“(C) information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2602) and for States funded under part B (including the planning process described in section 2617(b)); and

“(D) a specification of the expected expenditures and how those expenditures will improve overall client outcomes, as described in the State plan under section 2617(b);”;

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(3) the applicant agrees to provide additional documentation to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

“(4) the applicant agrees to submit, every 2 years, to the lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this title and shall include necessary client level data to complete unmet need calculations and Statewide coordinated statements of need process.”.

(c) **PAYER OF LAST RESORT.**—Section 2664(f)(1)(A) of the Public Health Service Act (42 U.S.C. 300ff-64(f)(1)(A)) is amended by inserting “(except for a program administered by or providing the services of the Indian Health Service)” before the semicolon.

#### TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

##### SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.

Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-71 et seq.) is amended to read as follows:

##### “PART D—WOMEN, INFANTS, CHILDREN, AND YOUTH

##### “SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

“(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to public and nonprofit private entities (including a health facility operated by or pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care (directly or through contracts) for women, infants, children, and youth with HIV/AIDS.

“(b) **ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.**—Funds provided under grants awarded under subsection (a) may be used for the following support services:

“(1) Family-centered care including case management.

“(2) Referrals for additional services including—

“(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

“(B) referrals for other social and support services, as appropriate.

“(3) Additional services necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection including services designed to recruit and retain youth with HIV.

“(4) The provision of information and education on opportunities to participate in HIV/AIDS-related clinical research.

“(c) **COORDINATION WITH OTHER ENTITIES.**—A grant awarded under subsection (a) may be made only if the applicant provides an agreement that includes the following:

“(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

“(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

“(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding funds expended in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

“(d) **ADMINISTRATION; APPLICATION.**—A grant may only be awarded to an entity under subsection (a) if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section. Such application shall include the following:

“(1) Information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process outlined in section 2602) and for States funded under part B (including the planning process outlined in section 2617(b)).

“(2) A specification of the expected expenditures and how those expenditures will improve overall patient outcomes, as outlined as part of the State plan (under section 2617(b)) or through additional outcome measures.

“(e) **ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.**—

“(1) **REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.**—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

“(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

“(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

“(2) **EVALUATIONS.**—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

“(f) **ADMINISTRATIVE EXPENSES.**—

“(1) **LIMITATION.**—A grantee may not use more than 10 percent of amounts received under a grant awarded under this section for administrative expenses.

“(2) **CLINICAL QUALITY MANAGEMENT PROGRAM.**—A grantee under this section shall implement a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

“(g) **TRAINING AND TECHNICAL ASSISTANCE.**—From the amounts appropriated under subsection (i) for a fiscal year, the Secretary may use not more than 5 percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

“(h) **DEFINITIONS.**—In this section:

“(1) **ADMINISTRATIVE EXPENSES.**—The term ‘administrative expenses’ means funds that are to be used by grantees for grant management and monitoring activities, including costs related to any staff or activity unrelated to services or indirect costs.

“(2) **INDIRECT COSTS.**—The term ‘indirect costs’ means costs included in a Federally negotiated indirect rate.

“(3) **SERVICES.**—The term ‘services’ means—

“(A) services that are provided to clients to meet the goals and objectives of the program under this section, including the provision of professional, diagnostic, and therapeutic services by a primary care provider or a referral to and provision of specialty care; and

“(B) services that sustain program activity and contribute to or help improve services under subparagraph (A).

“(i) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated, \$71,800,000 for each of the fiscal years 2007 through 2009.”.

##### SEC. 402. GAO REPORT.

Not later than 24 months after the date of enactment of this Act, the Comptroller General of the Government Accountability Office shall conduct an evaluation, and submit to Congress a report, concerning the funding provided for under part D of title XXVI of the Public Health Service Act to determine—

(1) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, for individuals with HIV/AIDS;

(2) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, and youth infected with HIV/AIDS;

(3) how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;

(4) how funds are used to provide additional services authorized under section 2671(b) of such title; and

(5) how funds are used to help identify HIV-positive pregnant women and their children who are exposed to HIV and connect them with care that can improve their health and prevent perinatal transmission.

**TITLE V—GENERAL PROVISIONS****SEC. 501. GENERAL PROVISIONS.**

Part E of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-80 et seq.) is amended to read as follows:

**“PART E—GENERAL PROVISIONS****“SEC. 2681. COORDINATION.**

“(a) **REQUIREMENT.**—The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and the Centers for Medicare & Medicaid Services coordinate the planning, funding, and implementation of Federal HIV programs (including all minority AIDS initiatives of the Public Health Service, including under section 2693) to enhance the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease. The Secretary shall consult with other Federal agencies, including the Department of Veterans Affairs, as needed and utilize planning information submitted to such agencies by the States and entities eligible for assistance under this title.

“(b) **REPORT.**—The Secretary shall biennially prepare and submit to the appropriate committees of the Congress a report concerning the coordination efforts at the Federal, State, and local levels described in this section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease.

“(c) **INTEGRATION BY STATE.**—As a condition of receipt of funds under this title, a State shall provide assurances to the Secretary that health support services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV/AIDS is enhanced.

“(d) **INTEGRATION BY LOCAL OR PRIVATE ENTITIES.**—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall provide assurances to the Secretary that services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV is enhanced.

**“SEC. 2682. AUDITS.**

“(a) **IN GENERAL.**—For fiscal year 2009, and each subsequent fiscal year, the Secretary may reduce the amounts of grants under this title to a State or political subdivision of a State for a fiscal year if, with respect to such grants for the second preceding fiscal year, the State or subdivision fails to prepare audits in accordance with the procedures of section 7502 of title 31, United States Code. The Secretary shall annually select representative samples of such audits, prepare summaries of the selected audits, and submit the summaries to the Congress.

“(b) **POSTING ON THE INTERNET.**—All audits that the Secretary receives from the State lead agency under section 2617(b)(4) shall be posted, in their entirety, on the Internet website of the Health Resources and Services Administration.

**“SEC. 2683. PUBLIC HEALTH EMERGENCY.**

“(a) **IN GENERAL.**—In an emergency area and during an emergency period, the Secretary shall have the authority to waive such requirements of this title to improve the health and safety of those receiving care under this title and the general public, except that the Secretary may not expend

more than 5 percent of the funds allocated under this title for sections 2620 and section 2603(b).

“(b) **EMERGENCY AREA AND EMERGENCY PERIOD.**—In this section:

“(1) **EMERGENCY AREA.**—The term ‘emergency area’ means a geographic area in which there exists—

“(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

“(B) a public health emergency declared by the Secretary pursuant to section 319.

“(2) **EMERGENCY PERIOD.**—The term ‘emergency period’ means the period in which there exists—

“(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

“(B) a public health emergency declared by the Secretary pursuant to section 319.

“(c) **UNOBLIGATED FUNDS.**—If funds under a grant under this section are not expended for an emergency in the fiscal year in which the emergency is declared, such funds shall be returned to the Secretary for reallocation under sections 2603(b) and 2620.

**“SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.**

“None of the funds appropriated under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.

**“SEC. 2685. PRIVACY PROTECTIONS.**

“(a) **IN GENERAL.**—The Secretary shall ensure that any information submitted to, or collected by, the Secretary under this title excludes any personally identifiable information.

“(b) **DEFINITION.**—In this section, the term ‘personally identifiable information’ has the meaning given such term under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

**“SEC. 2686. GAO REPORT.**

“The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of Federal, State, and local barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing the continuity of care and the provision of prevention services for individuals with HIV/AIDS or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided with such funds increase access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.

**“SEC. 2687. SEVERITY OF NEED INDEX.**

“(a) **DEVELOPMENT OF INDEX.**—Not later than September 30, 2008, the Secretary shall develop and submit to the appropriate committees of Congress a severity of need index in accordance with subsection (c).

“(b) **DEFINITION OF SEVERITY OF NEED INDEX.**—In this section, the term ‘severity of need index’ means the index of the relative needs of individuals within a State or area, as identified by a number of different fac-

tors, and is a factor or set of factors that is multiplied by the number of living HIV/AIDS cases in a State or area, providing different weights to those cases based on needs. Such factors or set of factors may be different for different components of the provisions under this title.

“(c) **REQUIREMENTS FOR SECRETARIAL SUBMISSION.**—When the Secretary submits to the appropriate committees of Congress the severity of need index under subsection (a), the Secretary shall provide the following:

“(1) Methodology for and rationale behind developing the severity of need index, including information related to the field testing of the severity of need index.

“(2) An independent contractor analysis of activities carried out under paragraph (1).

“(3) Information regarding the process by which the Secretary received community input regarding the application and development of the severity of need index.

“(d) **ANNUAL REPORTS.**—If the Secretary fails to submit the severity of need index under subsection (a) in either of fiscal years 2007 or 2008, the Secretary shall prepare and submit to the appropriate committees of Congress a report for such fiscal year—

“(1) that updates progress toward having client level data;

“(2) that updates the progress toward having a severity of need index, including information related to the methodology and process for obtaining community input; and

“(3) that, as applicable, states whether the Secretary could develop a severity of need index before fiscal year 2009.

**“SEC. 2688. DEFINITIONS.**

“For purposes of this title:

“(1) **AIDS.**—The term ‘AIDS’ means acquired immune deficiency syndrome.

“(2) **CO-OCCURRING CONDITIONS.**—The term ‘co-occurring conditions’ means one or more adverse health conditions in an individual with HIV/AIDS, without regard to whether the individual has AIDS and without regard to whether the conditions arise from HIV.

“(3) **COUNSELING.**—The term ‘counseling’ means such counseling provided by an individual trained to provide such counseling.

“(4) **FAMILY-CENTERED CARE.**—The term ‘family-centered care’ means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV/AIDS.

“(5) **FAMILIES WITH HIV/AIDS.**—The term ‘families with HIV/AIDS’ means families in which one or more members have HIV/AIDS.

“(6) **HIV.**—The term ‘HIV’ means infection with the human immunodeficiency virus.

“(7) **HIV/AIDS.**—

“(A) **IN GENERAL.**—The term ‘HIV/AIDS’ means HIV, and includes AIDS and any condition arising from AIDS.

“(B) **COUNTING OF CASES.**—The term ‘living cases of HIV/AIDS’, with respect to the counting of cases in a geographic area during a period of time, means the sum of—

“(i) the number of living non-AIDS cases of HIV in the area; and

“(ii) the number of living cases of AIDS in the area.

“(C) **NON-AIDS CASES.**—The term ‘non-AIDS’, with respect to a case of HIV, means that the individual involved has HIV but does not have AIDS.

“(8) **HUMAN IMMUNODEFICIENCY VIRUS.**—The term ‘human immunodeficiency virus’ means the etiologic agent for AIDS.

“(9) **OFFICIAL POVERTY LINE.**—The term ‘official poverty line’ means the poverty line



established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

“(10) PERSON.—The term ‘person’ includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

“(11) STATE.—

“(A) IN GENERAL.—The term ‘State’ means each of the 50 States, the District of Columbia, and each of the territories.

“(B) TERRITORIES.—The term ‘territory’ means each of American Samoa, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

“(12) YOUTH WITH HIV.—The term ‘youth with HIV’ means individuals who are 13 through 24 years old and who have HIV/AIDS.”

#### TITLE VI—DEMONSTRATION AND TRAINING

##### SEC. 601. DEMONSTRATION AND TRAINING.

Subpart I of part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended to read as follows:

##### “Subpart I—Special Projects of National Significance

##### “SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

“(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, C, and D for each fiscal year, the Secretary shall use the greater of \$20,000,000 or an amount equal to 3 percent of such amount appropriated under each such part, but not to exceed \$25,000,000, to administer special projects of national significance to—

“(1) quickly respond to emerging needs of individuals receiving assistance under this title; and

“(2) to fund special programs to develop a standard electronic client information data system to improve the ability of grantees under this title to report client-level data to the Secretary.

“(b) GRANTS.—The Secretary shall award grants under subsection (a) to entities eligible for funding under parts A, B, C, and D based on—

“(1) whether the funding will promote obtaining client level data as it relates to the creation of a severity of need index, including funds to facilitate the purchase and enhance the utilization of qualified health information technology systems;

“(2) demonstrated ability to create and maintain a qualified health information technology system;

“(3) the potential replicability of the proposed activity in other similar localities or nationally;

“(4) the demonstrated reliability of the proposed qualified health information technology system across a variety of providers, geographic regions, and clients; and

“(5) the demonstrated ability to maintain a safe and secure qualified health information system; or

“(6) newly emerging needs of individuals receiving assistance under this title.

“(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the

applicant agrees to participate in the ongoing revision process of such statement of need.

“(d) PRIVACY PROTECTION.—The Secretary may not make a grant under this section for the development of a qualified health information technology system unless the applicant provides assurances to the Secretary that the system will, at a minimum, comply with the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

“(e) REPLICATION.—The Secretary shall make information concerning successful models or programs developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance for grantees funded under this part.”

##### SEC. 602. AIDS EDUCATION AND TRAINING CENTERS.

(a) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting “and Native Americans” after “minority individuals”; and

(B) by striking “and” at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or C co-infected individuals.”

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SCHOOLS, CENTERS, AND DENTAL PROGRAMS.—Section 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–111(c)) is amended to read as follows:

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (a), there is authorized to be appropriated \$34,700,000 for each of the fiscal years 2007 through 2009.

“(2) DENTAL SCHOOLS.—For the purpose of awarding grants under subsection (b), there is authorized to be appropriated \$13,000,000 for each of the fiscal years 2007 through 2009.”

##### SEC. 603. CODIFICATION OF MINORITY AIDS INITIATIVE.

Part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended by adding at the end the following:

##### “Subpart III—Minority AIDS Initiative

##### “SEC. 2693. MINORITY AIDS INITIATIVE.

“(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are authorized to be appropriated \$131,200,000 for fiscal year 2007, \$135,100,000 for fiscal year 2008, and \$139,100,000 for fiscal year 2009.

“(b) CERTAIN ACTIVITIES.—

“(1) IN GENERAL.—In carrying out the purpose described in subsection (a), the Secretary shall provide for—

“(A) emergency assistance under part A;

“(B) care grants under part B;

“(C) early intervention services under part C;

“(D) services through projects for HIV-related care under part D; and

“(E) activities through education and training centers under section 2692.

“(2) ALLOCATIONS AMONG ACTIVITIES.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

“(A) For competitive, supplemental grants to improve HIV-related health outcomes to reduce existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

“(i) For fiscal year 2007, \$43,800,000.

“(ii) For fiscal year 2008, \$45,400,000.

“(iii) For fiscal year 2009, \$47,100,000.

“(B) For competitive grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to treatment through the program under section 2616 for therapeutics, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

“(i) For fiscal year 2007, \$7,000,000.

“(ii) For fiscal year 2008, \$7,300,000.

“(iii) For fiscal year 2009, \$7,500,000.

“(C) For planning grants, capacity-building grants, and services grants to health care providers who have a history of providing culturally and linguistically appropriate care and services to racial and ethnic minorities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

“(i) For fiscal year 2007, \$53,400,000.

“(ii) For fiscal year 2008, \$55,400,000.

“(iii) For fiscal year 2009, \$57,400,000.

“(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV disease for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve \$18,500,000 for each of the fiscal years 2007 through 2009.

“(E) For increasing the training capacity of centers to expand the number of health care professionals with treatment expertise and knowledge about the most appropriate standards of HIV disease-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV disease, the Secretary shall, of the amount appropriated under subsection (a), reserve \$8,500,000 for each of the fiscal years 2007 through 2009.

“(c) CONSISTENCY WITH PRIOR PROGRAM.—With respect to the purpose described in subsection (a), the Secretary shall carry out this section consistent with the activities carried out under this title by the Secretary pursuant to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116).”

#### TITLE VII—MISCELLANEOUS PROVISIONS

##### SEC. 701. HEPATITIS; USE OF FUNDS.

Section 2667 of the Public Health Service Act (42 U.S.C. 300ff–67) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(4) shall provide information on the transmission and prevention of hepatitis A, B, and C, including education about the availability of hepatitis A and B vaccines and assisting patients in identifying vaccination sites.”

##### SEC. 702. CERTAIN REFERENCES.

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is amended—

(1) by striking “acquired immune deficiency syndrome” each place such term appears, other than in section 2687(1) (as added by section 501 of this Act), and inserting “AIDS”;

(2) by striking “such syndrome” and inserting “AIDS”; and

(3) by striking “HIV disease” each place such term appears and inserting “HIV/AIDS”.

**SEC. 703. REPEAL.**

Effective on October 1, 2009, title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is repealed.

**SA 5213.** Mr. FRIST (for Mr. INHOFE (for himself, Mr. CHAFEE, and Mr. JEFFORDS)) proposed an amendment to bill H.R. 4588, to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984; as follows:

On page 2, strike line 6 and insert the following:

“(B) the exploration of new ideas that—  
“(i) address water problems; or  
“(ii) expand understanding of water and water-related phenomena;

On page 3, line 24, strike “and”.

On page 4, strike lines 1 and 2 and insert the following:

“(C) advances in water infrastructure and water quality improvements; and

“(D) methods for identifying, and determining the effectiveness of, treatment technologies and efficiencies.”.

On page 4, line 5, strike “5” and insert “7.5”.

**SA 5214.** Mr. FRIST (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND and Mr. BAUCUS)) proposed an amendment to bill S. 2735, to amend the National Dam Safety Program Act to reauthorize the national dam safety program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. DAM SAFETY.**

(a) **SHORT TITLE.**—This section may be cited as the “Dam Safety Act of 2006”.

(b) **NATIONAL DAM INVENTORY.**—Section 6 of the National Dam Safety Program Act (33 U.S.C. 467d) is amended to read as follows:

**“SEC. 6. NATIONAL DAM INVENTORY.**

“The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.”.

**(c) NATIONAL DAM SAFETY PROGRAM.—**

(1) **DUTIES.**—Section 8(b)(1) of the National Dam Safety Program Act (33 U.S.C. 467f(b)(1)) is amended by striking “and target dates to” and inserting “performance measures, and target dates toward effectively administering this Act in order to”.

(2) **ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.**—Section 8(e)(2)(A) of the National Dam Safety Program Act (33 U.S.C. 467f(e)(2)(A)) is amended—

(A) in the matter preceding clause (i), by striking “substantially”;

(B) by redesignating clauses (iv) through (x) as clauses (v) through (xi), respectively;

(C) by inserting after clause (iii) the following:

“(iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;”;

(D) in clause (vii) (as redesignated by subparagraph (B)), by inserting “install and monitor instrumentation,” after “remedial work.”.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—Section 13 of the National Dam Safety Program Act (33 U.S.C. 467j) is amended—

(1) in subsection (a)(1), by striking “\$6,000,000 for each of fiscal years 2003

through 2006” and inserting “\$6,500,000 for fiscal year 2007, \$7,100,000 for fiscal year 2008, \$7,600,000 for fiscal year 2009, \$8,300,000 for fiscal year 2010, and \$9,200,000 for fiscal year 2011”;

(2) in subsection (b), by striking “\$500,000 for each fiscal year” and inserting “\$650,000 for fiscal year 2007, \$700,000 for fiscal year 2008, \$750,000 for fiscal year 2009, \$800,000 for fiscal year 2010, and \$850,000 for fiscal year 2011”;

(3) in subsection (c), by striking “\$1,500,000 for each of fiscal years 2003 through 2006” and inserting “\$1,600,000 for fiscal year 2007, \$1,700,000 for fiscal year 2008, \$1,800,000 for fiscal year 2009, \$1,900,000 for fiscal year 2010, and \$2,000,000 for fiscal year 2011”;

(4) in subsection (d), by striking “\$500,000 for each of fiscal years 2003 through 2006” and inserting “\$550,000 for fiscal year 2007, \$600,000 for fiscal year 2008, \$650,000 for fiscal year 2009, \$700,000 for fiscal year 2010, and \$750,000 for fiscal year 2011”; and

(5) in subsection (e), by striking “\$600,000 for each of fiscal years 2003 through 2006” and inserting “\$700,000 for fiscal year 2007, \$800,000 for fiscal year 2008, \$900,000 for fiscal year 2009, \$1,000,000 for fiscal year 2010, and \$1,100,000 for fiscal year 2011”.

**SA 5215.** Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 430, recognizing the accomplishments of the American Council of Young Political Leaders for providing 40 years of international exchange programs, increasing international dialogue, and enhancing global understanding, and commemorating its 40th anniversary; as follows:

On page 3, in the third whereas clause, strike “during the hostilities” and insert “following the massacre”.

**SA 5216.** Mr. FRIST (for Mr. AKAKA) proposed an amendment to the bill S. 1876, to provide that attorneys employed by the Department of Justice shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code; as follows:

In section 1, strike subsection (a) and insert the following:

(a) **IN GENERAL.**—Attorneys employed by the Department of Justice (including assistant United States attorneys) shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code, without regard to any provision of section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106-113 and reenacted by section 111 of the Department of Justice Appropriations Act, 2001 (as enacted into law by appendix B of Public Law 106-553)).

**SA 5217.** Mr. FRIST (for Mr. SPECTER (for himself, Mr. LEAHY, Mr. REID, Mr. CORNYN, and Mr. DURBIN)) proposed an amendment to the bill H.R. 1751, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Court Security Improvement Act of 2006”.

**TITLE I—JUDICIAL SECURITY IMPROVEMENTS AND FUNDING****SEC. 101. JUDICIAL BRANCH SECURITY REQUIREMENTS.**

(a) **ENSURING CONSULTATION WITH THE JUDICIARY.**—Section 566 of title 28, United States Code, is amended by adding at the end the following:

“(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term ‘judicial security’ includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.”.

(b) **CONFORMING AMENDMENT.**—Section 331 of title 28, United States Code, is amended by adding at the end the following:

“The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term ‘judicial security’ includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.”.

**SEC. 102. PROTECTION OF FAMILY MEMBERS.**

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting “or a family member of that individual” after “that individual”; and

(2) in subparagraph (B)(i), by inserting “or a family member of that individual” after “the report”.

**SEC. 103. FINANCIAL DISCLOSURE REPORTS.**

(a) **EXTENSION OF AUTHORITY.**—Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “2005” each place that term appears and inserting “2009”.

(b) **REPORT CONTENTS.**—Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in clause (ii), by striking “and” at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(iv) the nature or type of information redacted;

“(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

“(vi) principles used to guide implementation of redaction authority; and

“(vii) any public complaints received in regards to redaction.”.

**SEC. 104. PROTECTION OF UNITED STATES TAX COURT.**

(a) IN GENERAL.—Section 566(a) of title 28, United States Code, is amended by striking “and the Court of International Trade” and inserting “, the Court of International Trade, and any other court, as provided by law”.

(b) INTERNAL REVENUE CODE.—Section 7456(c) of the Internal Revenue Code of 1986 (relating to incidental powers of the Tax Court) is amended in the matter following paragraph (3), by striking the period at the end, and inserting “and may otherwise provide for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened person in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding.”.

**SEC. 105. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.**

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, \$20,000,000 for each of fiscal years 2006 through 2010 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant United States attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

**TITLE II—CRIMINAL LAW ENHANCEMENTS TO PROTECT JUDGES, FAMILY MEMBERS, AND WITNESSES****SEC. 201. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.**

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**“SEC. 1521. RETALIATING AGAINST A FEDERAL JUDGE OR FEDERAL LAW ENFORCEMENT OFFICER BY FALSE CLAIM OR SLANDER OF TITLE.**

“Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

“1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title.”.

**SEC. 202. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN OFFICIAL DUTIES.**

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

**“§ 118. Protection of individuals performing certain official duties**

“(a) IN GENERAL.—Whoever knowingly makes restricted personal information about a covered official, or a member of the imme-

diated family of that covered official, publicly available—

“(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official; or

“(2) with the intent and knowledge that the restricted personal information will be used to threaten, intimidate, or facilitate the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official,

shall be fined under this title, imprisoned not more than 5 years, or both.

“(b) DEFINITIONS.—In this section—

“(1) the term ‘restricted personal information’ means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

“(2) the term ‘covered official’ means—

“(A) an individual designated in section 1114; or

“(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

“(3) the term ‘crime of violence’ has the meaning given the term in section 16; and

“(4) the term ‘immediate family’ has the meaning given the term in section 115(c)(2).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

“118. Protection of individuals performing certain official duties.”.

**SEC. 203. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.**

Section 930(e)(1) of title 18, United States Code, is amended by inserting “or other dangerous weapon” after “firearm”.

**SEC. 204. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.**

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

“(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.”.

**SEC. 205. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.**

(a) CHANGES IN PENALTIES.—Section 1512 of title 18, United States Code, is amended—

(1) so that subparagraph (A) of subsection (a)(3) reads as follows:

“(A) in the case of a killing, the punishment provided in sections 1111 and 1112;”;

(2) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking “20 years” and inserting “30 years”; and

(B) in subparagraph (C), by striking “10 years” and inserting “20 years”;

(3) in subsection (b), by striking “ten years” and inserting “20 years”; and

(4) in subsection (d), by striking “one year” and inserting “3 years”.

**SEC. 206. MODIFICATION OF RETALIATION OFFENSE.**

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a comma after “probation”; and

(B) by striking the comma which immediately follows another comma;

(2) in subsection (a)(2)(B), by striking “20 years” and inserting “30 years”;

(3) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting a comma after “probation”; and

(ii) by striking the comma which immediately follows another comma; and

(B) in the matter following paragraph (2), by striking “ten years” and inserting “20 years”; and

(4) by redesignating the second subsection (e) as subsection (f).

**SEC. 207. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.**

Section 1112(b) of title 18, United States Code, is amended—

(1) by striking “ten years” and inserting “20 years”; and

(2) by striking “six years” and inserting “10 years”.

**TITLE III—PROTECTING STATE AND LOCAL JUDGES AND RELATED GRANT PROGRAMS****SEC. 301. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.**

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

**“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated \$20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.”.

**SEC. 302. ELIGIBILITY OF STATE COURTS FOR CERTAIN FEDERAL GRANTS.**

(a) CORRECTIONAL OPTIONS GRANTS.—Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(4) grants to State courts to improve security for State and local court systems.”; and

(2) in subsection (b), by inserting after the period the following:

“Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.”.

(b) ALLOCATIONS.—Section 516(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended by—

(1) striking “80” and inserting “70”;

(2) striking “and 10” and inserting “10”; and

(3) inserting before the period the following: “, and 10 percent for section 515(a)(4)”.

(c) STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.—The Attorney General may require, as appropriate, that whenever a State or unit of local government or Indian tribe applies for a grant from the Department of Justice, the State, unit, or tribe demonstrate that, in developing the application and distributing funds, the State, unit, or tribe—

(1) considered the needs of the judicial branch of the State, unit, or tribe, as the case may be;

(2) consulted with the chief judicial officer of the highest court of the State, unit, or tribe, as the case may be; and

(3) consulted with the chief law enforcement officer of the law enforcement agency responsible for the security needs of the judicial branch of the State, unit, or tribe, as the case may be.

(d) **ARMOR VESTS.**—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379611) is amended—

(1) in subsection (a), by inserting “and State and local court officers” after “tribal law enforcement officers”; and

(2) in subsection (b), by inserting “State or local court,” after “government.”.

#### **TITLE IV—LAW ENFORCEMENT OFFICERS**

##### **SEC. 401. AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18.**

(a) **IN GENERAL.**—Section 926B of title 18, United States Code, is amended by adding at the end the following:

“(f) For purposes of this section, a law enforcement officer of the Amtrak Police Department or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.”.

(b) **RETIRED LAW ENFORCEMENT OFFICERS.**—Section 926C of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (3)(A), by striking “was regularly employed as a law enforcement officer for an aggregate of 15 years or more” and inserting “served as a law enforcement officer for an aggregate of 10 years or more”; and

(B) by striking paragraphs (4) and (5) and inserting the following:

“(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers as set by the officer’s former agency, the State in which the officer resides or a law enforcement agency within the State in which the officer resides;” and

(C) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(2) in subsection (d)—

(A) in paragraph (1), by striking “to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or” and inserting “to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm or”; and

(B) in paragraph (2)(B), by striking “otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.” and inserting “otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—

“(i) the active duty standards for qualification in firearms training as established by the State to carry a firearm of the same type as the concealed firearm; or

“(ii) if the State has not established such standards, standards set by a law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.”; and

(3) by adding at the end the following:

“(f) In this section, the term ‘service with a public agency as a law enforcement officer’ includes service as a law enforcement officer of the Amtrak Police Department or as a law enforcement or police officer of the executive branch of the Federal Government.”.

##### **SEC. 402. REPORT ON SECURITY OF FEDERAL PROSECUTORS.**

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, those who commit fraud and other white-collar offenses, and other criminal cases.

(b) **CONTENTS.**—The report submitted under subsection (a) shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling prosecutions described in subsection (a) and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling prosecutions described in subsection (a), including threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The firearms deputization policies of the Department of Justice, including the number of attorneys deputized and the time between receipt of threat and completion of the deputization and training process.

(4) For each requirement, measure, or policy described in paragraphs (1) through (3), when the requirement, measure, or policy was developed and who was responsible for developing and implementing the requirement, measure, or policy.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter-surveillance, and self-defense tactics.

(6) The measures that are taken to provide attorneys handling prosecutions described in subsection (a) with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency attorneys handling prosecutions described in subsection (a) are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the policy of the Department of Justice as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of attorneys handling prosecutions described in subsection (a), the organization and staffing of the offices, and the manner in

which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, attorneys handling prosecutions described in subsection (a).

##### **SEC. 403. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF QUALIFIED ACTIVE AND RETIRED LAW ENFORCEMENT OFFICERS.**

(a) **IN GENERAL.**—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall begin a study of the number of active and retired law enforcement officers carrying concealed firearms pursuant to sections 926B and 926C of title 18, United States Code.

(b) **CONTENTS.**—The study shall determine and analyze the following:

(1) The number of qualified law enforcement officers in each State or any political subdivision thereof carrying a concealed firearm under section 926B of title 18, United States Code.

(2) The number of qualified retired law enforcement officers in each State or any political subdivision thereof carrying a concealed firearm under section 926C of title 18, United States Code.

(3) The number of qualified retired law enforcement officers with less than 15 years of service carrying a concealed firearm.

(4) The number of qualified retired law enforcement officers obtaining certification from a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met the active duty standards for qualification in firearms training as established by the State or, if the State has not established such standards, standards set by a law enforcement agency for training and qualification for active duty law enforcement officers within that State, to carry a firearm of the same type as the concealed firearm. The report shall also include detailed information on the differences between the certification requirements set forth by each State and each law enforcement agency within that State authorized to issue certifications for concealed weapons under sections 926B and 926C of title 18, United States Code.

(5) A detailed analysis and comparison of the criteria used in each State or any political subdivision thereof to determine whether an individual is qualified to carry a concealed weapon under section 926C(c)(5) of title 18, United States Code.

(c) **OPPORTUNITY FOR PUBLIC COMMENT.**—The Comptroller General shall provide an opportunity for public comment on the proposed scope and methodology for the report required by subsections (a) and (b), making such modifications in response to such comments as he deems appropriate.

(d) **REPORT.**—Not later than 15 months after the date of the enactment of this Act, the Comptroller General shall complete the study under this section and submit a report to the Committees on the Judiciary the Senate and the Committee on the Judiciary of the House of Representatives regarding the findings of the study.

#### **TITLE V—MISCELLANEOUS PROVISIONS**

##### **SEC. 501. EXPANDED PROCUREMENT AUTHORITY FOR THE UNITED STATES SENTENCING COMMISSION.**

(a) **IN GENERAL.**—Section 995 of title 28, United States Code, is amended by adding at the end the following:

“(f) The Commission may—

“(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year

and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);

“(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

“(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).”

(b) **SUNSET.**—The amendment made by subsection (a) shall cease to have force and effect on September 30, 2010.

#### **SEC. 502. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.**

(a) **IN GENERAL.**—Section 604(a)(5) of title 28, United States Code, is amended by inserting after “hold office during good behavior,” the following: “bankruptcy judges appointed under section 152 of this title, magistrate judges appointed under section 631 of this title, and territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

#### **SEC. 503. ASSIGNMENT OF JUDGES.**

Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: “However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrates, rulemaking, governance, and administrative matters.”

#### **SEC. 504. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATES.**

Section 631(a) of title 28, United States Code, is amended by striking “Northern Mariana Islands” the first place it appears and inserting “Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)”.

#### **SEC. 505. REAUTHORIZATION OF THE ETHICS IN GOVERNMENT ACT.**

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “2006” and inserting “2011”.

#### **SEC. 506. ELDERLY NONVIOLENT OFFENDER PILOT PROGRAM.**

(a) **PROGRAM ESTABLISHED.**—

(1) **IN GENERAL.**—Notwithstanding section 3624 of title 18, United States Code, or any other provision of law, the Director of the Bureau of Prisons shall conduct a pilot program to determine the effectiveness of removing each eligible elderly offender from a Bureau of Prison facility and placing such offender on home detention until the date on which the term of imprisonment to which the offender was sentenced expires.

(2) **TIMING OF PLACEMENT IN HOME DETENTION.**—

(A) **IN GENERAL.**—In carrying out the pilot program under paragraph (1), the Director of the Bureau of Prisons shall—

(i) in the case of an offender who is determined to be an eligible elderly offender on or before the date specified in subparagraph (B), place such offender on home detention not later than 180 days after the date of the enactment of this Act; and

(ii) in the case of an offender who is determined to be an eligible elderly offender after the date specified in subparagraph (B) and before the date that is 3 years and 91 days after the date of the enactment of this Act, place such offender on home detention not later than 90 days after the date of such determination.

(B) **DATE SPECIFIED.**—For purposes of subparagraph (A), the date specified in this subparagraph is the date that is 90 days after the date of the enactment of this Act.

(3) **VIOLATION OF TERMS OF HOME DETENTION.**—A violation by an eligible elderly offender of the terms of the home detention involved, including the commission of another Federal, State, or local crime, shall result in the removal of the offender from home detention and the return of the offender to the form of custody in which the offender was imprisoned immediately before placement on home detention under paragraph (1).

(b) **SCOPE OF PILOT PROGRAM.**—

(1) **PARTICIPATING DESIGNATED FACILITIES.**—The pilot program under subsection (a) shall be conducted through at least 1 Federal facility designated by the Director of the Bureau of Prisons as appropriate for the pilot program.

(2) **DURATION.**—The pilot program shall be conducted during each of fiscal years 2007 and 2008.

(c) **PROGRAM EVALUATION.**—

(1) **IN GENERAL.**—The Director of the Bureau of Prisons shall contract with an independent organization to monitor and evaluate the progress of each eligible elderly offender placed on home detention under subsection (a)(1) for the period such offender is on home detention during the duration described in subsection (b)(2).

(2) **ANNUAL REPORT.**—The organization described in paragraph (1) shall annually submit to the Director and to Congress a report on the pilot program under subsection (a)(1), which shall include—

(A) an evaluation of the effectiveness of the pilot program in providing a successful transition to eligible elderly offenders from incarceration to the community, including data relating to the recidivism rates for those offenders; and

(B) the cost savings to the Federal Government resulting from the early removal of such offenders from incarceration.

(3) **PROGRAM ADJUSTMENTS.**—Upon review of the report submitted under paragraph (2), the Director shall submit recommendations to Congress for adjustments to the pilot program, including, its expansion to additional facilities.

(d) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE ELDERLY OFFENDER.**—The term “eligible elderly offender” means an offender in the custody of the Bureau of Prisons who—

(A) is not less than 60 years of age;

(B) is serving a term of imprisonment after conviction for an offense other than a crime of violence and has served the greater of 10 years or ½ of the term of imprisonment;

(C) has not been convicted in the past of any Federal or State crime of violence;

(D) has not been determined by the Bureau of Prisons, on the basis of information the Bureau uses to make custody classifications, and in the sole discretion of the Bureau, to have a history of violence;

(E) has not escaped, or attempted to escape, from the Bureau of Prisons facility; and

(F) has not been determined by the Director, pursuant to the disciplinary system of the Bureau of Prisons, to have committed an infraction involving an act of violence.

(2) **HOME DETENTION.**—The term “home detention” has the same meaning given the term in the Federal Sentencing Guidelines, and includes detention in a nursing home or other residential long-term care facility.

(3) **TERM OF IMPRISONMENT.**—The term “term of imprisonment” includes multiple terms of imprisonment ordered to run consecutively or concurrently, which shall be treated as a single, aggregate term of imprisonment for purposes of this section.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2007 and 2008.

**SA 5218.** Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill S. 2653, to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas; as follows:

At the appropriate place, insert the following:

#### **SEC. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.**

Pursuant to section 3006 of Public Law 109-171 (47 U.S.C. 309 note), the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security, shall award no less than \$1,000,000,000 for public safety interoperable communications grants no later than September 30, 2007 subject to the receipt of qualified applications as determined by the Assistant Secretary.

**SA 5219.** Mr. FRIST (for Mr. ENZI) proposed an amendment to the bill H.R. 864, to provide for programs and activities with respect to the prevention of underage drinking; as follows:

Strike all after the enacting clause and insert the following:

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Sober Truth on Preventing Underage Drinking Act” or the “STOP Act”.

#### **SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

Section 519B of the Public Health Service Act (42 U.S.C. 290bb-25b) is amended by striking subsections (a) through (f) and inserting the following:

“(a) **DEFINITIONS.**—For purposes of this section:

“(1) The term ‘alcohol beverage industry’ means the brewers, vintners, distillers, importers, distributors, and retail or online outlets that sell or serve beer, wine, and distilled spirits.

“(2) The term ‘school-based prevention’ means programs, which are institutionalized, and run by staff members or school-designated persons or organizations in any grade of school, kindergarten through 12th grade.

“(3) The term ‘youth’ means persons under the age of 21.

“(4) The term ‘IOM report’ means the report released in September 2003 by the National Research Council, Institute of Medicine, and entitled ‘Reducing Underage Drinking: A Collective Responsibility’.

“(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that:

“(1) A multi-faceted effort is needed to more successfully address the problem of underage drinking in the United States. A coordinated approach to prevention, intervention, treatment, enforcement, and research is key to making progress. This Act recognizes the need for a focused national effort, and addresses particulars of the Federal portion of that effort, as well as Federal support for State activities.

“(2) The Secretary of Health and Human Services shall continue to conduct research and collect data on the short and long-range impact of alcohol use and abuse upon adolescent brain development and other organ systems.

“(3) States and communities, including colleges and universities, are encouraged to adopt comprehensive prevention approaches, including—

“(A) evidence-based screening, programs and curricula;

“(B) brief intervention strategies;

“(C) consistent policy enforcement; and

“(D) environmental changes that limit underage access to alcohol.

“(4) Public health groups, consumer groups, and the alcohol beverage industry should continue and expand evidence-based efforts to prevent and reduce underage drinking.

“(5) The entertainment industries have a powerful impact on youth, and they should use rating systems and marketing codes to reduce the likelihood that underage audiences will be exposed to movies, recordings, or television programs with unsuitable alcohol content.

“(6) The National Collegiate Athletic Association, its member colleges and universities, and athletic conferences should affirm a commitment to a policy of discouraging alcohol use among underage students and other young fans.

“(7) Alcohol is a unique product and should be regulated differently than other products by the States and Federal Government. States have primary authority to regulate alcohol distribution and sale, and the Federal Government should support and supplement these State efforts. States also have a responsibility to fight youth access to alcohol and reduce underage drinking. Continued State regulation and licensing of the manufacture, importation, sale, distribution, transportation and storage of alcoholic beverages are clearly in the public interest and are critical to promoting responsible consumption, preventing illegal access to alcohol by persons under 21 years of age from commercial and non-commercial sources, maintaining industry integrity and an orderly marketplace, and furthering effective State tax collection.

“(C) INTERAGENCY COORDINATING COMMITTEE; ANNUAL REPORT ON STATE UNDERAGE DRINKING PREVENTION AND ENFORCEMENT ACTIVITIES.—

“(1) INTERAGENCY COORDINATING COMMITTEE ON THE PREVENTION OF UNDERAGE DRINKING.—

“(A) IN GENERAL.—The Secretary, in collaboration with the Federal officials specified in subparagraph (B), shall formally establish and enhance the efforts of the interagency coordinating committee, that began operating in 2004, focusing on underage drinking (referred to in this subsection as the ‘Committee’).

“(B) OTHER AGENCIES.—The officials referred to in paragraph (1) are the Secretary of Education, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Defense, the Surgeon General, the Director of the Centers for Disease Control and Prevention, the Director of the National Institute on Alcohol Abuse and Alcoholism, the Administrator of the Substance Abuse and Mental Health

Services Administration, the Director of the National Institute on Drug Abuse, the Assistant Secretary for Children and Families, the Director of the Office of National Drug Control Policy, the Administrator of the National Highway Traffic Safety Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Chairman of the Federal Trade Commission, and such other Federal officials as the Secretary of Health and Human Services determines to be appropriate.

“(C) CHAIR.—The Secretary of Health and Human Services shall serve as the chair of the Committee.

“(D) DUTIES.—The Committee shall guide policy and program development across the Federal Government with respect to underage drinking, provided, however, that nothing in this section shall be construed as transferring regulatory or program authority from an Agency to the Coordinating Committee.

“(E) CONSULTATIONS.—The Committee shall actively seek the input of and shall consult with all appropriate and interested parties, including States, public health research and interest groups, foundations, and alcohol beverage industry trade associations and companies.

“(F) ANNUAL REPORT.—

“(i) IN GENERAL.—The Secretary, on behalf of the Committee, shall annually submit to the Congress a report that summarizes—

“(I) all programs and policies of Federal agencies designed to prevent and reduce underage drinking;

“(II) the extent of progress in preventing and reducing underage drinking nationally;

“(III) data that the Secretary shall collect with respect to the information specified in clause (ii); and

“(IV) such other information regarding underage drinking as the Secretary determines to be appropriate.

“(ii) CERTAIN INFORMATION.—The report under clause (i) shall include information on the following:

“(I) Patterns and consequences of underage drinking as reported in research and surveys such as, but not limited to Monitoring the Future, Youth Risk Behavior Surveillance System, the National Survey on Drug Use and Health, and the Fatality Analysis Reporting System.

“(II) Measures of the availability of alcohol from commercial and non-commercial sources to underage populations.

“(III) Measures of the exposure of underage populations to messages regarding alcohol in advertising and the entertainment media as reported by the Federal Trade Commission.

“(IV) Surveillance data, including information on the onset and prevalence of underage drinking, consumption patterns and the means of underage access. The Secretary shall develop a plan to improve the collection, measurement and consistency of reporting Federal underage alcohol data.

“(V) Any additional findings resulting from research conducted or supported under subsection (f).

“(VI) Evidence-based best practices to prevent and reduce underage drinking and provide treatment services to those youth who need them.

“(2) ANNUAL REPORT ON STATE UNDERAGE DRINKING PREVENTION AND ENFORCEMENT ACTIVITIES.—

“(A) IN GENERAL.—The Secretary shall, with input and collaboration from other appropriate Federal agencies, States, Indian tribes, territories, and public health, consumer, and alcohol beverage industry groups, annually issue a report on each State’s performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.

“(B) STATE PERFORMANCE MEASURES.—

“(i) IN GENERAL.—The Secretary shall develop, in consultation with the Committee, a set of measures to be used in preparing the report on best practices.

“(ii) CATEGORIES.—In developing these measures, the Secretary shall consider categories including, but not limited to:

“(I) Whether or not the State has comprehensive anti-underage drinking laws such as for the illegal sale, purchase, attempt to purchase, consumption, or possession of alcohol; illegal use of fraudulent ID; illegal furnishing or obtaining of alcohol for an individual under 21 years; the degree of strictness of the penalties for such offenses; and the prevalence of the enforcement of each of these infractions.

“(II) Whether or not the State has comprehensive liability statutes pertaining to underage access to alcohol such as dram shop, social host, and house party laws, and the prevalence of enforcement of each of these laws.

“(III) Whether or not the State encourages and conducts comprehensive enforcement efforts to prevent underage access to alcohol at retail outlets, such as random compliance checks and shoulder tap programs, and the number of compliance checks within alcohol retail outlets measured against the number of total alcohol retail outlets in each State, and the result of such checks.

“(IV) Whether or not the State encourages training on the proper selling and serving of alcohol for all sellers and servers of alcohol as a condition of employment.

“(V) Whether or not the State has policies and regulations with regard to direct sales to consumers and home delivery of alcoholic beverages.

“(VI) Whether or not the State has programs or laws to deter adults from purchasing alcohol for minors; and the number of adults targeted by these programs.

“(VII) Whether or not the State has programs targeted to youths, parents, and caregivers to deter underage drinking; and the number of individuals served by these programs.

“(VIII) Whether or not the State has enacted graduated drivers licenses and the extent of those provisions.

“(IX) The amount that the State invests, per youth capita, on the prevention of underage drinking, further broken down by the amount spent on—

“(aa) compliance check programs in retail outlets, including providing technology to prevent and detect the use of false identification by minors to make alcohol purchases;

“(bb) checkpoints and saturation patrols that include the goal of reducing and deterring underage drinking;

“(cc) community-based, school-based, and higher-education-based programs to prevent underage drinking;

“(dd) underage drinking prevention programs that target youth within the juvenile justice and child welfare systems; and

“(ee) other State efforts or programs as deemed appropriate.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$1,000,000 for fiscal year 2007, and \$1,000,000 for each of the fiscal years 2008 through 2010.

“(d) NATIONAL MEDIA CAMPAIGN TO PREVENT UNDERAGE DRINKING.—

“(1) SCOPE OF THE CAMPAIGN.—The Secretary shall continue to fund and oversee the production, broadcasting, and evaluation of the national adult-oriented media public service campaign if the Secretary determines that such campaign is effective in achieving the media campaign’s measurable objectives.



“(2) REPORT.—The Secretary shall provide a report to the Congress annually detailing the production, broadcasting, and evaluation of the campaign referred to in paragraph (1), and to detail in the report the effectiveness of the campaign in reducing underage drinking, the need for and likely effectiveness of an expanded adult-oriented media campaign, and the feasibility and the likely effectiveness of a national youth-focused media campaign to combat underage drinking.

“(3) CONSULTATION REQUIREMENT.—In carrying out the media campaign, the Secretary shall direct the entity carrying out the national adult-oriented media public service campaign to consult with interested parties including both the alcohol beverage industry and public health and consumer groups. The progress of this consultative process is to be covered in the report under paragraph (2).

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, \$1,000,000 for fiscal year 2007 and \$1,000,000 for each of the fiscal years 2008 through 2010.

“(e) INTERVENTIONS.—

“(1) COMMUNITY-BASED COALITION ENHANCEMENT GRANTS TO PREVENT UNDERAGE DRINKING.—

“(A) AUTHORIZATION OF PROGRAM.—The Administrator of the Substance Abuse and Mental Health Services Administration, in consultation with the Director of the Office of National Drug Control Policy, shall award, if the Administrator determines that the Department of Health and Human Services is not currently conducting activities that duplicate activities of the type described in this subsection, ‘enhancement grants’ to eligible entities to design, test, evaluate and disseminate effective strategies to maximize the effectiveness of community-wide approaches to preventing and reducing underage drinking. This subsection is subject to the availability of appropriations.

“(B) PURPOSES.—The purposes of this paragraph are to—

“(i) prevent and reduce alcohol use among youth in communities throughout the United States;

“(ii) strengthen collaboration among communities, the Federal Government, and State, local, and tribal governments;

“(iii) enhance intergovernmental cooperation and coordination on the issue of alcohol use among youth;

“(iv) serve as a catalyst for increased citizen participation and greater collaboration among all sectors and organizations of a community that first demonstrates a long-term commitment to reducing alcohol use among youth;

“(v) disseminate to communities timely information regarding state-of-the-art practices and initiatives that have proven to be effective in preventing and reducing alcohol use among youth; and

“(vi) enhance, not supplant, effective local community initiatives for preventing and reducing alcohol use among youth.

“(C) APPLICATION.—An eligible entity desiring an enhancement grant under this paragraph shall submit an application to the Administrator at such time, and in such manner, and accompanied by such information as the Administrator may require. Each application shall include—

“(i) a complete description of the entity’s current underage alcohol use prevention initiatives and how the grant will appropriately enhance the focus on underage drinking issues; or

“(ii) a complete description of the entity’s current initiatives, and how it will use this grant to enhance those initiatives by adding a focus on underage drinking prevention.

“(D) USES OF FUNDS.—Each eligible entity that receives a grant under this paragraph

shall use the grant funds to carry out the activities described in such entity’s application submitted pursuant to subparagraph (C). Grants under this paragraph shall not exceed \$50,000 per year and may not exceed four years.

“(E) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this paragraph shall be used to supplement, not supplant, Federal and non-Federal funds available for carrying out the activities described in this paragraph.

“(F) EVALUATION.—Grants under this paragraph shall be subject to the same evaluation requirements and procedures as the evaluation requirements and procedures imposed on recipients of drug free community grants.

“(G) DEFINITIONS.—For purposes of this paragraph, the term ‘eligible entity’ means an organization that is currently receiving or has received grant funds under the Drug-Free Communities Act of 1997 (21 U.S.C. 1521 et seq.).

“(H) ADMINISTRATIVE EXPENSES.—Not more than 6 percent of a grant under this paragraph may be expended for administrative expenses.

“(I) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$5,000,000 for fiscal year 2007, and \$5,000,000 for each of the fiscal years 2008 through 2010.

“(2) GRANTS DIRECTED AT PREVENTING AND REDUCING ALCOHOL ABUSE AT INSTITUTIONS OF HIGHER EDUCATION.—

“(A) AUTHORIZATION OF PROGRAM.—The Secretary shall award grants to eligible entities to enable the entities to prevent and reduce the rate of underage alcohol consumption including binge drinking among students at institutions of higher education.

“(B) APPLICATIONS.—An eligible entity that desires to receive a grant under this paragraph shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

“(i) a description of how the eligible entity will work to enhance an existing, or where none exists to build a, statewide coalition;

“(ii) a description of how the eligible entity will target underage students in the State;

“(iii) a description of how the eligible entity intends to ensure that the statewide coalition is actually implementing the purpose of this section and moving toward indicators described in subparagraph (D);

“(iv) a list of the members of the statewide coalition or interested parties involved in the work of the eligible entity;

“(v) a description of how the eligible entity intends to work with State agencies on substance abuse prevention and education;

“(vi) the anticipated impact of funds provided under this paragraph in preventing and reducing the rates of underage alcohol use;

“(vii) outreach strategies, including ways in which the eligible entity proposes to—

“(I) reach out to students and community stakeholders;

“(II) promote the purpose of this paragraph;

“(III) address the range of needs of the students and the surrounding communities; and

“(IV) address community norms for underage students regarding alcohol use; and

“(viii) such additional information as required by the Secretary.

“(C) USES OF FUNDS.—Each eligible entity that receives a grant under this paragraph shall use the grant funds to carry out the activities described in such entity’s application submitted pursuant to subparagraph (B).

“(D) ACCOUNTABILITY.—On the date on which the Secretary first publishes a notice in the Federal Register soliciting applications for grants under this paragraph, the Secretary shall include in the notice achievement indicators for the program authorized under this paragraph. The achievement indicators shall be designed—

“(i) to measure the impact that the statewide coalitions assisted under this paragraph are having on the institutions of higher education and the surrounding communities, including changes in the number of incidents of any kind in which students have abused alcohol or consumed alcohol while under the age of 21 (including violations, physical assaults, sexual assaults, reports of intimidation, disruptions of school functions, disruptions of student studies, mental health referrals, illnesses, or deaths);

“(ii) to measure the quality and accessibility of the programs or information offered by the eligible entity; and

“(iii) to provide such other measures of program impact as the Secretary determines appropriate.

“(E) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this paragraph shall be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities described in this paragraph.

“(F) DEFINITIONS.—For purposes of this paragraph:

“(i) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State, institution of higher education, or nonprofit entity.

“(ii) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

“(iii) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

“(iv) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(v) STATEWIDE COALITION.—The term ‘statewide coalition’ means a coalition that—

“(I) includes, but is not limited to—

“(aa) institutions of higher education within a State; and

“(bb) a nonprofit group, a community underage drinking prevention coalition, or another substance abuse prevention group within a State; and

“(II) works toward lowering the alcohol abuse rate by targeting underage students at institutions of higher education throughout the State and in the surrounding communities.

“(vi) SURROUNDING COMMUNITY.—The term ‘surrounding community’ means the community—

“(I) that surrounds an institution of higher education participating in a statewide coalition;

“(II) where the students from the institution of higher education take part in the community; and

“(III) where students from the institution of higher education live in off-campus housing.

“(G) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of a grant under this paragraph may be expended for administrative expenses.

“(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$5,000,000 for fiscal year 2007, and \$5,000,000 for each of the fiscal years 2008 through 2010.

“(f) ADDITIONAL RESEARCH.—

“(1) ADDITIONAL RESEARCH ON UNDERAGE DRINKING.—

“(A) IN GENERAL.—The Secretary shall, subject to the availability of appropriations,

collect data, and conduct or support research that is not duplicative of research currently being conducted or supported by the Department of Health and Human Services, on underage drinking, with respect to the following:

“(i) Comprehensive community-based programs or strategies and statewide systems to prevent and reduce underage drinking, across the underage years from early childhood to age 21, including programs funded and implemented by government entities, public health interest groups and foundations, and alcohol beverage companies and trade associations.

“(ii) Annually obtain and report more precise information than is currently collected on the scope of the underage drinking problem and patterns of underage alcohol consumption, including improved knowledge about the problem and progress in preventing, reducing and treating underage drinking; as well as information on the rate of exposure of youth to advertising and other media messages encouraging and discouraging alcohol consumption.

“(iii) Compiling information on the involvement of alcohol in unnatural deaths of persons ages 12 to 20 in the United States, including suicides, homicides, and unintentional injuries such as falls, drownings, burns, poisonings, and motor vehicle crash deaths.

“(B) CERTAIN MATTERS.—The Secretary shall carry out activities toward the following objectives with respect to underage drinking:

“(i) Obtaining new epidemiological data within the national or targeted surveys that identify alcohol use and attitudes about alcohol use during pre- and early adolescence, including harm caused to self or others as a result of adolescent alcohol use such as violence, date rape, risky sexual behavior, and prenatal alcohol exposure.

“(ii) Developing or identifying successful clinical treatments for youth with alcohol problems.

“(C) PEER REVIEW.—Research under subparagraph (A) shall meet current Federal standards for scientific peer review.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$6,000,000 for fiscal year 2007, and \$6,000,000 for each of the fiscal years 2008 through 2010.”.

**SA 5220.** Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill H.R. 4075, to amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes; as follows:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “United States-Russia Polar Bear Conservation and Management Act of 2006”.

#### SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end thereof the following:

##### “TITLE V—POLAR BEARS

#### “SEC. 501. DEFINITIONS.

“In this title:

“(1) AGREEMENT.—The term “Agreement” means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

“(2) ALASKA NANUUQ COMMISSION.—The term “Alaska Nanuuq Commission” means the Alaska Native entity, in existence on the date of enactment of the United States-Russia Polar Bear Conservation and Management Act of 2006, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

“(3) IMPORT.—The term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

“(4) POLAR BEAR PART OR PRODUCT.—The term “part or product of a polar bear” means any polar bear part or product, including the gall bile and gall bladder.

“(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

“(6) TAKING.—The term “taking” has the meaning given the term in the Agreement.

“(7) COMMISSION.—The term “Commission” means the commission established under article 8 of the Agreement.

#### “SEC. 502. PROHIBITIONS.

“(a) IN GENERAL.—It is unlawful for any person who is subject to the jurisdiction of the United States or any person in waters or on lands under the jurisdiction of the United States—

“(1) to take any polar bear in violation of the Agreement;

“(2) to take any polar bear in violation of the Agreement or any annual taking limit or other restriction on the taking of polar bears that is adopted by the Commission pursuant to the Agreement;

“(3) to import, export, possess, transport, sell, receive, acquire, or purchase, exchange, barter, or offer to sell, purchase, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of paragraph (2);

“(4) to import, export, sell, purchase, exchange, barter, or offer to sell, purchase, exchange, or barter, any polar bear gall bile or polar bear gall bladder;

“(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

“(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

“(b) EXCEPTIONS.—For the purpose of forensic testing or any other law enforcement purpose, the Secretary, and Federal law enforcement officials, and any State or local law enforcement official authorized by the Secretary, may import a polar bear or any part or product of a polar bear.

#### “SEC. 503. ADMINISTRATION.

“(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

“(b) UTILIZATION OF OTHER GOVERNMENT RESOURCES AND AUTHORITIES.—

“(1) OTHER GOVERNMENT RESOURCES.—The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement.

“(2) OTHER POWERS AND AUTHORITIES.—Any person authorized by the Secretary under

this subsection to enforce this title or the Agreement shall have the authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

#### “(c) ENSURING COMPLIANCE.—

“(1) TITLE I AUTHORITIES.—The Secretary may use authorities granted under title I for enforcement, imposition of penalties, and the seizure of cargo for violations under this title, provided that any polar bear or any part or product of a polar bear taken, imported, exported, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered, or offered for sale, purchase, exchange, or barter in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution under this Act.

“(2) ADDITIONAL AUTHORITIES.—Any gun, trap, net, or other equipment used, and any vessel, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to seizure and forfeiture under section 106.

#### “(d) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

“(2) ORDINANCES AND REGULATIONS.—If necessary to carry out this title and the Agreement, and to improve compliance with any annual taking limit or other restriction on taking adopted by the Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

#### “SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.

“(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears for subsistence purposes with the Alaska Nanuuq Commission if such commission is eligible under subsection (b).

“(b) DELEGATION.—To be eligible for the management authority described in subsection (a), the Alaska Nanuuq Commission shall—

“(1) enter into a cooperative agreement with the Secretary under section 119 for the conservation of polar bears;

“(2) meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

“(3) administer its co-management program for polar bears in accordance with—

“(A) this title; and

“(B) the Agreement.

#### “SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.

“(a) APPOINTMENT OF U.S. COMMISSIONERS.—

“(1) APPOINTMENT.—The United States commissioners on the Commission shall be appointed by the President, in accordance with paragraph 2 of article 8 of the Agreement, after taking into consideration the recommendations of—

“(A) the Secretary;

“(B) the Secretary of State; and

“(C) the Alaska Nanuuq Commission.

“(2) QUALIFICATIONS.—With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

“(A) 1 United States commissioner shall be an official of the Federal Government;

“(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

“(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

“(3) SERVICE AND TERM.—Each United States commissioner shall serve—

“(A) at the pleasure of the President; and

“(B) for an initial 4-year term and such additional terms as the President shall determine.

“(4) VACANCIES.—

“(1) IN GENERAL.—Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

“(B) MANNER.—Any vacancy on the Commission shall be filled in the same manner as the original appointment.

“(b) ALTERNATE COMMISSIONERS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State and the Alaska Nanuq Commission, shall designate an alternate commissioner for each member of the United States section.

“(2) DUTIES.—In the absence of a United States commissioner, an alternate commissioner may exercise all functions of the United States commissioner at any meetings of the Commission or of the United States section.

“(3) REAPPOINTMENT.—An alternate commissioner—

“(A) shall be eligible for reappointment by the President; and

“(B) may attend all meetings of the United States section.

“(c) DUTIES.—The members of the United States section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

“(d) COMPENSATION AND EXPENSES.—

“(1) COMPENSATION.—A member of the United States section shall serve without compensation.

“(2) TRAVEL EXPENSES.—A member of the United States section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

“(e) AGENCY DESIGNATION.—The United States section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

**“SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.**

“In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.

**“SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.**

“(a) IN GENERAL.—The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

“(b) TAKING LIMITATION.—Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other re-

striction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

**“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

“(a) IN GENERAL.—The authority of the Secretary under this title is in addition to, and shall not affect—

“(1) the authority of the Secretary under the other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act as applied to other marine mammal populations; or

“(2) the authorities provided under title II of this Act.

“(b) CERTAIN PROVISIONS INAPPLICABLE.—The provisions of titles I through IV of this Act do not apply with respect to the implementation or administration of this title, except as specified in section 503.

**“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement \$1,000,000 for each of fiscal years 2006 through 2010.

“(b) COMMISSION.—There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section \$150,000 for each of fiscal years 2006 through 2010.

“(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM.—There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska \$150,000 for each of fiscal years 2006 through 2010.”

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

**“TITLE V—POLAR BEARS**

“Sec. 501. Definitions.

“Sec. 502. Prohibitions.

“Sec. 503. Administration.

“Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.

“Sec. 505. Commission appointments; compensation, travel expenses, and claims.

“Sec. 506. Votes taken by the United States Section on matters before the Commission.

“Sec. 507. Implementation of actions taken by the Commission.

“Sec. 508. Application with other titles of Act.

“Sec. 509. Authorization of appropriations.”

(c) TREATMENT OF CONTAINERS.—Section 107(d)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1377(d)(2)) is amended by striking “vessel or other conveyance” each place it appears and inserting “vessel, other conveyance, or container”.

**SA 5221.** Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill H.R. 4075, to amend the Marine Mammal Protection Act of 1972 to provide for better understanding and protection of marine mammals, and for other purposes; as follows:

Amend the title so as to read “An Act to amend the Marine Mammal Protection Act of 1972 in order to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.”

**SA 5222.** Mr. WYDEN (for himself, Ms. CANTWELL, Mr. SMITH, and Mrs. MURRAY) submitted an amendment in-

tended to be proposed by him to the bill H.R. 4388, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. FUNDING SOURCE FOR RURAL SCHOOLS AND COMMUNITIES PAYMENTS.**

(a) RURAL SCHOOLS AND COMMUNITIES TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 9511. RURAL SCHOOLS AND COMMUNITIES TRUST FUND.**

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Rural Schools and Communities Trust Fund’, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

“(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Rural Schools and Communities Trust Fund amounts equivalent to the amounts estimated by the Secretary by which Federal revenues are increased, before January 1, 2011, as a result of the provisions of section 3402(t).

“(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Rural Schools and Communities Trust Fund shall be available only for—

“(1) payments to eligible States under section 102(a)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000; and

“(2) payments to eligible counties under section 103(a)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000.”

(2) CONFORMING AMENDMENTS.—

(A) PAYMENTS TO STATES.—Paragraph (3) of section 102(b) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393; 16 U.S.C. 500 note) is amended by striking “out of any funds in the Treasury not otherwise appropriated” and inserting “out of the Rural Schools and Communities Trust Fund under section 9511 of the Internal Revenue Code of 1986”.

(B) PAYMENTS TO COUNTIES.—Paragraph (2) of section 103(b) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393; 16 U.S.C. 500 note) is amended by striking “out of any funds in the Treasury not otherwise appropriated” and inserting “out of the Rural Schools and Communities Trust Fund under section 9511 of the Internal Revenue Code of 1986”.

(3) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 9511. Rural Schools and Communities Trust Fund.”

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2007.

(b) IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

(1) ACCELERATION OF EFFECTIVE DATE.—Section 511(b) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “December 31, 2010” and inserting “December 31, 2006”.

(2) EXCLUSION FOR PAYMENTS TO SMALL BUSINESSES BEFORE 2011.—Paragraph (2) of section 3402(t) of the Internal Revenue Code of 1986 is amended by striking “and” at the

end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, and”, and by adding at the end the following:

“(J) made before January 1, 2011, to any business which employed fewer than 50 employees during the preceding taxable year. For purposes of subparagraph (J), rules similar to the rules of paragraphs (2)(A) and (6) of section 44(d) shall apply.”.

(3) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect as if included in the Tax Increase Prevention and Reconciliation Act of 2005.

(c) **EXTENSION OF SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT.**—The Secure Rural Schools and Community Act of 2000 (Public Law 106-393; 16 U.S.C. 500 note) is amended—

(1) in sections 208 and 303, by striking “2007” both places it appears and inserting “2008”; and

(2) in sections 101(a), 102(b)(2), 103(b)(1), 203(a)(1), 207(a), 208, 303, and 401, by striking “2006” each place it appears and inserting “2007”.

**SA 5223.** Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 3821, to authorize certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance; as follows:

Strike all after the enacting clause and insert the following:

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as either the “Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006” or the “COMPETE Act of 2006”.

#### **SEC. 2. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.**

(a) **IN GENERAL.**—Section 214(c)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

“(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;

“(II) is a professional athlete, as defined in section 204(i)(2);

“(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

“(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country;

“(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and

“(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or

“(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production; and

“(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

“(I) as such an athlete with respect to a specific athletic competition; or

“(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.”.

(b) **LIMITATION.**—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C.

1184(c)(4)) is amended by adding at the end the following:

“(F)(i) No nonimmigrant visa under section 101(a)(15)(P)(i)(a) shall be issued to any alien who is a national of a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety, national security, or national interest of the United States. In making a determination under this subparagraph, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

“(ii) In this subparagraph, the term ‘state sponsor of international terrorism’ means any country the government of which has been determined by the Secretary of State under any of the laws specified in clause (iii) to have repeatedly provided support for acts of international terrorism.

“(iii) The laws specified in this clause are the following:

“(I) Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or successor statute).

“(II) Section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

“(III) Section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).”.

(c) **PETITIONS FOR MULTIPLE ALIENS.**—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsection (b), is further amended by adding at the end the following:

“(G) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than 1 alien as a nonimmigrant under section 101(a)(15)(P)(i)(a).”.

(d) **RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsections (b) and (c), is further amended by adding at the end the following:

“(H) The Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i) if the athlete is eligible under such other provision.”.

#### **AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, December 6, 2006 at 9:30 a.m. in SR-328A, Russell Senate Office Building. The purpose of this hearing will be to consider the following nominations: Leland A. Strom, of Illinois, to be a member of the Farm Credit Administration Board; Jill E. Sommers, of Kansas, to be a Commissioner on the Commodity Futures Trading Commission; and Mark Everett Keenum, of Mississippi, to be Under Secretary of Agriculture for Farm and Foreign Agricultural Services and a member of the Board of Directors of the Commodity Credit Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WARNER. Mr. President, I ask unanimous consent that on Wednesday, December 6, 2006, at 9:15 a.m. the Committee on Environment and Public Works be authorized to hold a Business Meeting to consider the following agenda: Alex Beehler to be Inspector General of the Environmental Protection Agency; Eric D. Eberhard to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation; Diane Humetewa to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WARNER. Mr. President, I ask unanimous consent that on December 6, 2006, at 9:30 a.m. the Committee on Environment and Public Works be authorized to hold a hearing on Climate Change and the Media.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, December 6, 2006, at 10 a.m. for a hearing titled, “Hurricane Katrina: Stopping the Flood of Fraud, Waste, and Abuse.”

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, December 6, 2006, at 3 p.m. to consider the nomination of Paul A. Schneider to be Under Secretary for Management, U.S. Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on “FBI Oversight” for Wednesday, December 6, 2006 at 9:30 a.m. in Dirksen Senate Office Building room 226.

#### *Witness List*

Panel I: The Honorable Robert S. Mueller III, Director, Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.